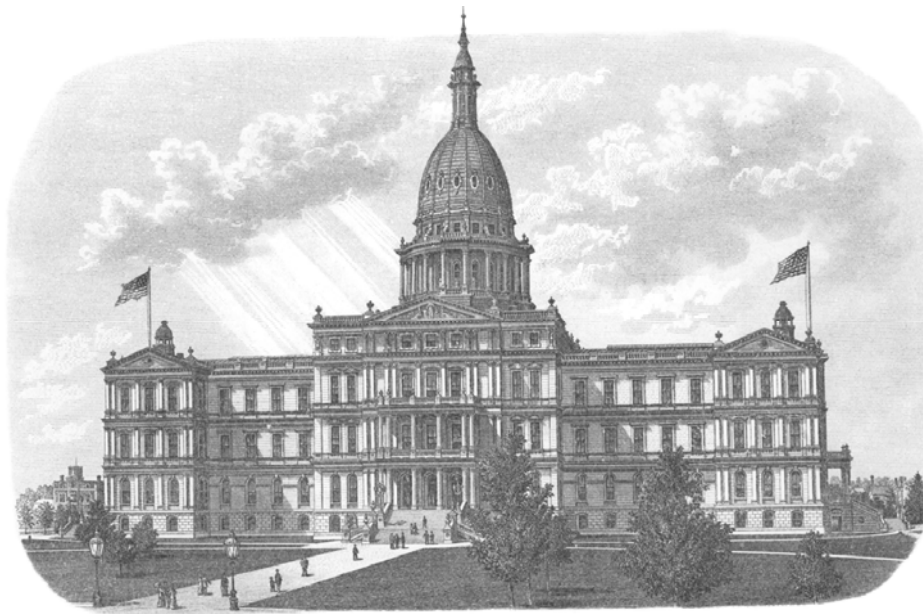


# Michigan Register

Issue No. 8 – 2009 (Published May 15, 2009)



# GRAPHIC IMAGES IN THE MICHIGAN REGISTER

## COVER DRAWING

### *Michigan State Capitol:*

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

## PAGE GRAPHICS

### *Capitol Dome:*

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19<sup>th</sup> century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

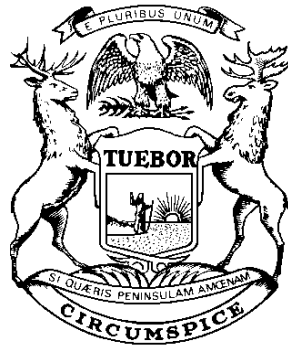
### *East Elevation of the Michigan State Capitol:*

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

# Michigan Register

Published pursuant to § 24.208 of  
The Michigan Compiled Laws



Issue No. 8— 2009

(This issue, published May 15, 2009, contains  
documents filed from April 15, 2009 to May 1, 2009)

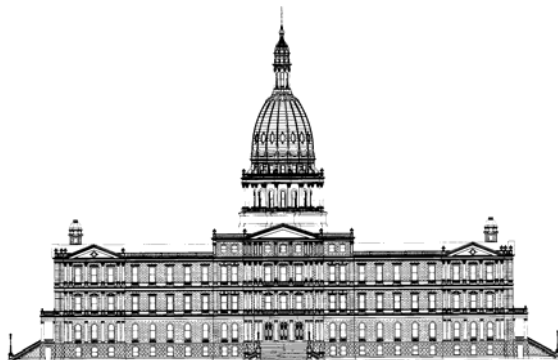
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**Peter Plummer**, Executive Director, State Office of Administrative Hearings and Rules; **Deidre O'Berry**, Administrative Rules Analyst for Operations and Publications.

**Jennifer M. Granholm, Governor**



**John D. Cherry Jr., Lieutenant Governor**

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## PREFACE

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### PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The State Office of Administrative Hearings and Rules publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

**24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.**

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
  - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
  - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
  - (d) Proposed administrative rules.
  - (e) Notices of public hearings on proposed administrative rules.
  - (f) Administrative rules filed with the secretary of state.
  - (g) Emergency rules filed with the secretary of state.
  - (h) Notice of proposed and adopted agency guidelines.
  - (i) Other official information considered necessary or appropriate by the office of regulatory reform.
  - (j) Attorney general opinions.
  - (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.
- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
- (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
- (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
- (5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

**4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.**

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

**CITATION TO THE MICHIGAN REGISTER**

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

**CLOSING DATES AND PUBLICATION SCHEDULE**

The deadlines for submitting documents to the State Office of Administrative Hearings and Rules for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The State Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933.

### **RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE**

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

### **SUBSCRIPTIONS AND DISTRIBUTION**

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the State Office of Administrative Hearings and Rules (517) 335-2484.

### **INTERNET ACCESS**

The *Michigan Register* can be viewed free of charge on the Internet web site of the State Office of Administrative Hearings and Rules: [www.michigan.gov/cis/0,1607,7-154-10576\\_35738---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10576_35738---,00.html)

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the State Office of Administrative Hearings and Rules Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Peter Plummer, Executive Director  
State Office of Administrative Hearings and Rules



## 2009 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2009	February 1, 2009
2	February 1, 2009	February 15, 2009
3	February 15, 2009	March 1, 2009
4	March 1, 2009	March 15, 2009
5	March 15, 2009	April 1, 2009
6	April 1, 2009	April 15, 2009
7	April 15, 2009	May 1, 2009
8	May 1, 2009	May 15, 2009
9	May 15, 2009	June 1, 2009
10	June 1, 2009	June 15, 2009
11	June 15, 2009	July 1, 2009
12	July 1, 2009	July 15, 2009
13	July 15, 2009	August 1, 2009
14	August 1, 2009	August 15, 2009
15	August 15, 2009	September 1, 2009
16	September 1, 2009	September 15, 2009
17	September 15, 2009	October 1, 2009
18	October 1, 2009	October 15, 2009
19	October 15, 2009	November 1, 2009
20	November 1, 2009	November 15, 2009
21	November 15, 2009	December 1, 2009
22	December 1, 2009	December 15, 2009
23	December 15, 2009	January 1, 2010
24	January 1, 2010	January 15, 2010

# CONTENTS

---

## ADMINISTRATIVE RULES FILED WITH SECRETARY OF STATE

---

### Department of Energy, Labor & Economic Growth

Public Service Commission (SOAHR # 2008-021)

Gas Safety .....2-6

### Department of Energy, Labor & Economic Growth

State Housing development Authority (SOAHR # 2008-045)

Part 9 Michigan Housing and Community Development Fund,  
Michigan Housing and Community Development Program .....7-19

---

## PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

---

### Department of Community Health

Bureau of Health Policy, Planning and Access (SOAHR # 2009-011)

State Trauma Systems .....21-26

---

## EXECUTIVE ORDERS AND EXECUTIVE REORGANIZATION ORDERS

---

Executive Order No. 22

Implementation of Expenditure Reductions under Section 20 of Article V  
Of the Michigan Constitution of 1963 .....28-42

---

## OPINIONS OF THE ATTORNEY GENERAL

---

AG Opinion No. 7229

Issues relating to the intentional sinking of a vessel to expand recreational  
Diving opportunities on the Great Lakes bottomlands .....44-53

---

## ENROLLED SENATE AND HOUSE BILLS SIGNED INTO LAW OR VETOED

---

Table (2009 Session) .....55-58

---

## MICHIGAN ADMINISTRATIVE CODE TABLE

---

Table (2009 Session) .....60-61

---

## CUMULATIVE INDEX

---

Cumulative Index (2009) .....62-64

---

**ADMINISTRATIVE RULES**  
**FILED WITH THE SECRETARY OF STATE**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(f) Administrative rules filed with the secretary of state.”*

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**ADMINISTRATIVE RULES**

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SOAHR 2008-021 LG

DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH

PUBLIC SERVICE COMMISSION

GAS SAFETY

April 17, 2009

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the public service commission by section 2 of 1969 PA 165, MCL 483.152)

R 460.20320 and R 460.20321 of the Michigan Administrative Code are rescinded, and R 460.20101, 460.20302, 460.20304, 460.20309, 460.20326, 460.20402, 460.20405, 460.20407, 460.20408, 460.20425, 460.20430, 460.20602, 460.20604, 460.20605, and 460.20606 of the Code are amended as follows:

R 460.20101 Applicability of rules.

Rule 101. (1) These rules apply to the design, fabrication, installation, inspection, testing, and safety aspects of the operation and maintenance of gas pipeline facilities used in the transportation of gas.

(2) These rules do not apply to either of the following:

(a) The onshore gathering of gas under either of the following conditions:

(i) Through a pipeline that operates at less than 0 psig.

(ii) Through a pipeline that is not a regulated onshore gathering line as determined by 49 C.F.R. § 192.8.

(b) Any pipeline system that transports only petroleum gas or petroleum gas and air mixtures under either of the following circumstances:

(i) The pipeline has fewer than 10 customers and no portion of the system is located in a public place.

(ii) The pipeline has only 1 customer and the system is located entirely on the customer's premises.

(3) The work performed within the scope of these rules shall meet or exceed all of the safety standards in these rules.

R 460.20302 Compressor station piping.

Rule 302. (1) An operator shall install and test gas piping, other than instrument, control, and sample piping, in accordance with these rules.

(2) An operator shall identify all emergency valves and controls by signs. An operator shall identify important gas pressure piping by signs or color coding to indicate its function.

(3) An operator shall ensure that fuel gas lines within a compressor station conform to both of the following provisions:

(a) Are provided with master shutoff valves located outside of a building.

(b) Are equipped with pressure-limiting devices to prevent the maximum allowable operating pressure from being exceeded by more than 10%.

(4) An operator shall equip the air piping within a compressor station that is part of an air starter with a check valve in the starting air line near each engine to prevent backflow from the engine into the air piping system. An operator shall also place a similar check valve in the main air line on the immediate outlet side of the air tank or tanks. An operator shall install equipment for cooling the air and removing the moisture and entrained oil between the starting air compressor and the air storage tank.

R 460.20304 Welding procedures.

Rule 304. In addition to the requirements contained in 49 C.F.R. §192.225, which is adopted by reference in R 460.20606, an operator shall ensure that a welding procedure meets all of the following requirements:

(a) Is qualified under either section IX of the ASME boiler and pressure vessel code, which is adopted by reference in R 460.20604, or section 5 of API standard 1104, which is adopted by reference in R 460.20603, whichever is appropriate to the function of the weld.

(b) Is qualified under appendix B of API standard 1104, which is adopted by reference in R 460.20603.

(c) A copy of the welding procedure being followed is on the jobsite when welding is performed.

R 460.20309 Service lines; valve location.

Rule 309. (1) In addition to the requirements contained in 49 C.F.R. §192.365, which is adopted by reference in R 460.20606, an operator shall ensure that service lines are equipped with a valve located on the service line outside the building if any of the following provisions apply:

(a) The service line operates at a pressure of more than 10 psig.

(b) The service line is 2 inches or larger in diameter.

(c) The service line supplies any of the following:

(i) A hospital.

(ii) A church.

(iii) A theater.

(iv) A school.

(v) A building of public assemblage similar to the buildings listed in paragraphs (i) to (iv) of this subdivision.

(vi) A commercial or industrial building.

(vii) A dwelling that houses more than 4 families.

(2) An operator shall ensure that an outside valve required by subrule (1) of this rule is located aboveground in an accessible place, if feasible. If an aboveground location is not feasible, then the operator shall ensure that a curb valve or other remote valve is installed.

(3) If a curb valve is installed, then the operator shall establish a planned procedure which permits accurately locating the service line valve within a reasonable period of time when the service line valve is not plainly visible at the surface of the ground during all periods of the year.

R 460.20320 Rescinded.

R 460.20321 Rescinded.

R 460.20326 Transmission lines; permanent field repair of leaks.

Rule 326. (1) In accordance with the requirements contained in 49 C.F.R. §192.717(b)(3), which is adopted by reference in R 460.20606, an operator shall repair a leak that is due to a corrosion pit or that occurs in a transmission line that is joined by mechanical couplings and that operates at less than 40% of the specified minimum yield strength of the pipeline through any of the following procedures:

- (a) The methodology set forth in 49 C.F.R. § 192.717(a).
- (b) The methodology set forth in 49 C.F.R. § 192.717(b)(1).
- (c) The methodology set forth in 49 C.F.R. § 192.717(b)(2).

(2) An operator shall not repair a leak described in subrule (1) of this rule through use of a fillet welded patch.

R 460.20402 Materials for pipe and components; requirements.

Rule 402. In addition to the requirements set forth in 49 C.F.R. §192.555, which is adopted by reference in R460.20606, metallic materials for pipe and other components used to transport sour gas shall meet the requirements set forth in the national association of corrosion engineers international standard NACE MR0175, parts 1-3, 2001-2005, which are adopted by reference in R 460.20605.

R 460.20405 Valves; qualification for sour gas service.

Rule 405. An operator shall ensure that valves to be used for sour gas service are qualified for sour gas service in accordance with the provisions of the national association of corrosion engineers international standard MR0175, parts 1-3, 2001-2005, which are adopted by reference in R 460.20605.

R 460.20407 Sectionalizing block valves.

Rule 407. In addition to the requirements set forth in 49 C.F.R. §192.179, which is adopted by reference in R 460.20606, an operator of pipeline facilities used in the transportation of sour gas shall comply with all of the following requirements for any portion of the pipeline that contains more than 10 pounds of H<sub>2</sub>S per mile, with the weight calculated according to the formula  $W=0.0933 (P) (V) (MW) (H) /T$ , where W=Weight of H<sub>2</sub>S in pounds per mile of pipe, P=Absolute pressure in pounds per square inch, V=Volume of one mile of pipe in cubic feet, mw=Molecular weight of natural gas, H=Percentage of H<sub>2</sub>S in the gas, and T=Temperature in degrees Rankine:

(a) Sectionalizing block valves shall be installed and located so that each point on the pipeline is within 3 miles of a sectionalizing block valve with a block valve located at each end of the pipeline.

(b) A pipeline shall incorporate block valve automation so that block valves will automatically close upon the registering of low pressure readings. The system shall be designed to operate even in the event of a power failure or malfunction of electronic devices and shall be designed to fail in a closed position.

(c) A pipeline shall incorporate a supervisory control and data acquisitions (SCADA) system that complies with all of the following provisions:

(i) Is monitored by the operator to ensure appropriate response to emergencies.

(ii) Is programmed to automatically close block valves based on operating data gathered at each metering site and at each automated block valve.

(iii) Automatically closes the upstream and downstream sectionalizing block valves surrounding any sectionalizing block valve that is in an alarm condition.

(iv) Allows the operator monitoring the SCADA system to close, but not open, any or all of the block valves and metering points.

(d) H<sub>2</sub>S sensors shall be located at all sectionalizing block valve sites. The sensors shall provide a warning to the SCADA system at H<sub>2</sub>S levels of 10 ppm and shall close the block valve at H<sub>2</sub>S levels of 30 ppm.

(e) Control valves shall be installed at appropriate locations at well sites or laterals to automatically shut off the flow of gas into the pipeline in the event of a line break or over pressure conditions.

R 460.20408 Qualification of welding procedures.

Rule 408. In addition to the requirements set forth in 49 C.F.R. §192.225, which is adopted by reference in R 460.20606, an operator of pipeline facilities used in the transportation of sour gas shall use welding procedures that conform to the welding provisions of the national association of corrosion engineers international standard NACE MR0175, parts 1-3, 2001-2005, which are adopted by reference in R 460.20605.

R 460.20425 Sour gas pipeline patrolling.

Rule 425. In addition to the requirements set forth in 49 C.F.R. §192.705, which is adopted by reference in R 460.20606, an operator of pipeline facilities used in the transportation of sour gas shall, at intervals of not more than 6 weeks, but not less than 12 times each calendar year, patrol all pipelines that are used in the transportation of sour gas.

R 460.20430 Inspection of pressure limiting and pressure regulating stations.

Rule 430. In addition to the requirements set forth in 49 C.F.R. §192.739, which is adopted by reference in R 460.20606, an operator of pipeline facilities used in the transportation of sour gas shall inspect all pressure limiting and pressure regulating devices at intervals of not more than 7 ½ months, but not less than twice each calendar year.

R 460.20602 Names, addresses, and phone numbers of organizations.

Rule 602. The names, addresses, and phone numbers of organizations that sponsor or publish documents that have been adopted by reference in these rules are as follows:

(a) American Petroleum Institute (API), 1220 L Street, NW, Washington, DC 20005, ((202) 682-8000).

(b) American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, New York, 10016-5990, ((212) 591-7000) or ((800) 843-2763), or contact its publishing division, 22 Law Drive, P.O. Box 2900, Fairfield, New Jersey, 07007, ((973) 882-1167).

(c) National Association of Corrosion Engineers International (NACE), 1400 South Creek Drive, Houston, Texas 77084-4906, ((281) 228-6200) or (800) 797-6223).

(d) U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA), East Building, 2<sup>nd</sup> Floor, 1200 New Jersey Ave., SE, Washington, D.C., 20590, ((202) 366-4433). To order a standard published in the Code of Federal Regulations (C.F.R.), contact the Government Printing Office, Superintendent of Documents, Attention: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954, ((202) 512-1803), or visit the website at bookstore.gpo.gov.

R 460.20603 American petroleum institute standard; adoption by reference.

Rule 603. The following American petroleum institute standard is adopted by reference in these rules and is available at the price listed:

API standard 1104 entitled “Welding of Pipelines and Related Facilities,” (19<sup>th</sup> edition, 1999, including errata dated October 31, 2001), at a cost as of the time of adoption of these rules of \$188.00.

R 460.20604 American society of mechanical engineers standard; adoption by reference.

Rule 604. The following American society of mechanical engineers standard is adopted by reference in these rules and is available at the price listed:

ASME boiler and pressure vessel code, section IX, entitled “Welding and Brazing Qualifications,” (2004 edition, including addenda through July 1, 2005), at a cost as of the time of adoption of these rules of \$440.00.

R 460.20605 National association of corrosion engineers international standard; adoption by reference.

Rule 605. The following national association of corrosion engineers international standard is adopted by reference in these rules and is available at the price listed:

NACE MR0175, parts 1-3, 2001-2005, entitled “Petroleum and natural gas industries – materials for use in H<sub>2</sub>S-containing environments in oil and gas production” at a cost as of the time of adoption of these rules of \$242.00.

R 460.20606 Pipeline and hazardous materials safety administration standards; adoption by reference.

Rule 606. (1) The following pipeline and hazardous materials safety administration standard is adopted by reference in these rules and may be ordered from the Government Publishing Office via the internet at bookstore.gpo.gov at a cost at the time of adoption of these rules at the price listed. The standard is also available for public inspection and distribution at the price listed from the Michigan Public Service Commission, 6545 Mercantile Way, Lansing, Michigan 48909-7721:

49 C.F.R. part 40 entitled “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” (2007 edition), at a cost as of the time of adoption of these rules of \$60.00.

(2) The following office of pipeline and hazardous materials safety administration standards are adopted by reference in these rules and may be ordered from the Government Publishing Office via the internet at bookstore.gpo.gov at a cost at the time of adoption of these rules of \$23.00 for a single volume that contains all of the standards. The standards are also available for public inspection and distribution at the price listed from the Michigan Public Service Commission, 6545 Mercantile Way, Lansing, MI 48909-7721:

(a) 49 C.F.R. part 191 entitled “Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-related Condition Reports,” (2007 edition and all additional final rule changes through October 1, 2008).

(b) 49 C.F.R. part 192 entitled “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” (2007 edition and all additional final rule changes through October 1, 2008).

(c) 49 C.F.R. part 199 entitled “Drug and Alcohol Testing,” (2007 edition and all additional final rule changes through October 1, 2008).



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**ADMINISTRATIVE RULES**

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SOAHR 2008-045

DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH

STATE HOUSING DEVELOPMENT AUTHORITY

GENERAL RULES

Filed with the Secretary of State on April 28, 2009

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a (6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the state housing development authority by sections 22 and 58b of 1966 PA 346, MCL 125.1422 and MCL 125.1458b of the Michigan Compiled Laws)

R 125.190, R 125.191, R 125.192, R 125.193, R 125.194, R 125.195, R 125.196, and R 125.197 are amended, and R 125.198 is added to the Michigan Administrative Code as follows:

**PART 9 – MICHIGAN HOUSING AND COMMUNITY DEVELOPMENT FUND; MICHIGAN HOUSING AND COMMUNITY DEVELOPMENT PROGRAM**

R.125.190 Program purpose and applicability.

Rule 190. The Michigan state housing development authority shall use the housing and community development fund to provide loans, grants, or other comparable forms of assistance to eligible applicants to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing and projects located in a downtown area or adjacent neighborhood in this state. The use of the fund, created pursuant to MCL 125.1458b, is limited to activities outlined in MCL 125.1458b and 125.1458c as follows:

(a) Developing and coordinating public and private resources to meet the housing needs of low income, very low income, and extremely low income households in this state, particularly innovative strategies leveraging public and private resources to meet these needs.

(b) Developing housing for the homeless, including both transitional housing and permanent housing.

(c) Developing rental housing.

(d) Providing funding to eligible applicants with respect to housing or homeownership for individuals and families of low income, very low income, and extremely low income households and projects located in a downtown area or adjacent neighborhood in this state, including funding for all of the following:

(i) Acquisition of land and buildings.

(ii) Rehabilitation.

(iii) New construction.

(iv) Development costs and predevelopment costs.

(v) Preservation of existing housing.

- (vi) Community development projects, including, but not limited to, infrastructure improvements, economic development projects, blight elimination, or community facilities.
- (vii) Insurance.
- (viii) Operating and replacement reserves.
- (ix) Down payment assistance.
- (x) Security deposit assistance.
- (xi) Foreclosure prevention and assistance.
- (xii) Individual development accounts established under the individual or family development account program act, 2006 PA 513, MCL 206.701 to 206.711.
- (xiii) Activities related to ending homelessness.
- (XIV) Assistance to nonprofit organizations, municipalities, and land bank fast track authorities organized under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.
- (XV) Predatory lending prevention or relief.

Rule 125.191 Definitions.

Rule 191. Definitions provided for in part I of the authority's rules, R 125.101 to R 125.103, shall apply to the provisions of this part, unless superseded in this rule as follows:

- (a) "Adjacent neighborhood" means a residential area as determined by the authority immediately adjoining or near a downtown area within the same municipality.
- (b) "Allocation plan" means the plan referred to in and required by MCL 125.1458b (3).
- (c) "Annual report" means the annual report required under MCL 125.1458b (6).
- (d) "Applicant" means a person who has submitted an application, proposal, or other documentation related to a request for an award of housing and community development fund monies meeting the requirements contained in the applicable NOFA or RFP related to the applicable application year.
- (e) "Biennial plan" means the allocation plan as defined in subdivision (b) of this subrule.
- (f) "Chief Executive Officer" or "CEO" means the senior manager responsible for overseeing the activities of the entire company or organization. The CEO usually holds a position on the board of directors of the company or organization and may also hold the title of president.
- (g) "Chief Financial Officer" or "CFO" means the company's or organization's top managerial and financial accountant and the individual in charge of the company's or organization's financial matters.
- (h) "Community development" means a process involving the conception, planning, and implementation of projects or activities which create improvements in, or reduce the extent of declines in, the living standards of people in a particular community.
- (i) "Controlling interest" means the holding by 1 person or group of persons of a majority of the stock or other indicia of ownership of a business entity, giving the holder or holders a means of exercising control over the actions of the entity.
- (j) "Development costs" means the sum total of all costs incurred in a housing development or a partnership project located in a downtown area or special purpose entity that is approved by the authority and that is organized for the purpose of developing and supporting affordable housing for low income, very low income, or extremely low income households, any of which are determined by the authority to qualify for funding under the program.
- (k) "Extremely low income household" means a person, a family, or unrelated persons living together whose adjusted household income is not more than 25% of the median income, as determined by the authority.
- (l) "Formula" means the standard procedure for distributing the program funds across the state as specified in MCL 125.1458b (4) (a).
- (m) "For-profit corporation" means an entity that exists primarily to generate more income than it spends.

(n) “Housing development costs” means the sum total of all costs incurred in a housing development adjacent neighborhood determined by the authority to be reasonable and necessary, including but not limited to, all of the following:

(i) Cost of land acquisition and any buildings on the land, including payments for options, deposits, or contracts to purchase properties on the proposed housing development site or project located in a downtown area or adjacent neighborhood site or payments for the purchase of properties.

(ii) Cost of site preparation, demolition, and clearing.

(iii) Architectural, engineering, legal, accounting, corporation, and other fees paid or payable in connection with the planning, execution, and financing of the housing development or project located in a downtown area or adjacent neighborhood and the finding of an eligible mortgagee or mortgagees for the housing development or project located in a downtown area or adjacent neighborhood.

(iv) Cost of necessary studies, surveys, plans, and permits.

(v) Insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during construction.

(vi) Cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery, apparatus, and similar facilities related to the real property.

(vii) Cost of land improvements, including landscaping and offsite improvements.

(viii) Necessary expenses in connection with initial occupancy of the housing development or the project located in a downtown area or adjacent neighborhood.

(ix) A reasonable profit and risk fee in addition to job overhead to the general contractor and, if applicable, a limited-dividend housing sponsor.

(x) An allowance established by the authority for working capital and contingency reserves and reserves for any anticipated operating deficits during construction and initial occupancy.

(xi) Cost of other items that are determined to be reasonable and necessary for the housing development or project located in a downtown area or adjacent neighborhood, less any net rents and other net revenue received from the operation of the real and personal property on the development site or project site during the construction.

(k) “Downtown area” means an area where 20 or more contiguous properties have been planned, zoned, or used for commercial purposes for 50 or more years and where a majority of the buildings are built adjacent to each other as determined by the authority and up to the public right-of-way. To be a downtown area, the area shall contain a significant number of multilevel, mixed use buildings and property in the downtown area must be owned by more than 3 private owners.

(l) “Eligible applicant” means a not-for-profit corporation, a for-profit corporation, a municipality, a land bank fast track authority organized under the land bank fast track act, 2003 PA 258, MCL 124.751 to MCL 124.774, or a partnership or special purpose entity that is approved by the authority and that is organized for the purpose of developing and supporting affordable housing for low income, very low income, or extremely low income households, or projects located in a downtown area or adjacent neighborhood, any of which are determined by the authority to qualify for funding under the program.

(m) “Extremely low income household” means a person, a family, or unrelated persons living together whose adjusted household income is not more than 25 30% of the area median income, as determined by the authority.

(n) “Formula” means the standard procedure for distributing the program funds throughout the state based on the number of persons experiencing poverty, economic and housing distress as specified in MCL 125.1458b (3) (A).

(o) “For-profit corporation” means an entity that exists primarily to generate more income than it spends.

(p) “Homelessness” means lacking a fixed, regular, and adequate nighttime residence with priority given to those living in any of the following:

(i) A publicly or privately operated shelter and/or transitional facility designed to provide temporary living accommodations.

(ii) A public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings.

(iii) An institution that provides temporary residence for individuals intended to be institutionalized.

(q) “Housing development” means single-family homes, rental developments, elderly developments, affordable assisted living developments, supportive housing developments, and any work or undertaking financed in whole or in part under this part for the primary purpose of acquiring, constructing, or rehabilitating housing for low, very low, or extremely low income households in need of housing. An undertaking may include any buildings, land, equipment, facilities, or other real or personal property that is necessary, convenient, or desirable in connection with a development, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and other non-housing facilities determined to be necessary, convenient, or desirable.

(r) “HUD” means the United States department of housing and urban development, the federal department responsible for the major housing programs in the United States.

(s) “Lookback” means the process of reviewing an intended proposed distribution of program funds in a program year to ensure compliance with the earmark requirements provided in the statute and these rules.

(t) “Low income household” means a person, a family, or unrelated persons living together whose adjusted household income is more than 50% but not more than 60% of the median income, as determined by the authority.

(u) “Michigan housing and community development fund” means the fund created in MCL 125.1458a.

(v) “Michigan housing and community development programfund advisory committee” means the programcommittee created in pursuant to MCL 125.1458b.1458e.

(w) “Michigan housing and community development program” means the program created in MCL 125.1458b.

(x) “Mixed use buildings” means buildings that can be used for more than 1 purpose, and in any combination, including, but not limited to, residential housing combined with either commercial or retail space.

(y) “NOFA” means a notice of funding availability issued pursuant to this rule and the applicable statutory law governing the program.

(z) “Not-for-profit corporation” means a public or private corporation that meets all of the following:

(i) Is organized under state or local laws.

(ii) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual.

(iii) Has a current tax exemption ruling from the internal revenue service (IRS) under section 501(c)(3), a charitable, nonprofit corporation, or section 501(c)(4), a community or civic organization, of the internal revenue code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the application and must continue to be effective throughout the length of any contract agreements; or classification as a subordinate of a central organization non-profit under the internal revenue code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the applicant. The group exemption letter must specifically list the applicant.

(iv) A private nonprofit organization's pending application for section 501(c) (3) or (c) (4) status does not comply with the tax status requirement.

(aa) “Persons with disabilities” means a household composed of 1 or more persons, at least 1 of whom is a person who has a disability that is a physical or mental impairment that substantially limits 1 or

more major life activities; has a record of such impairment; or is regarded as having such an impairment as defined in the developmental disabilities assistance and bill of rights act (42 U.S.C. §15002).

(bb) “Persons with special needs” means adult individuals or categories of adult individuals determined by the authority to have unmet housing and supportive service needs and may include any household composed of 1 or more persons with physical, mental, or emotional impairment of long-term duration, including, but not limited to, alcohol and/or drug addictions, persons with disabilities including profound deafness and the legally blind, victims of domestic violence, persons with HIV/AIDS, homeless populations, migrant farm workers, and individuals that are recipients of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits. In addition to a physical, mental, or emotional impairment, the person must have a substantial and sustained need for supportive services assistance in at least two of the following life-skills areas in order to successfully live independently:

(i) The ability to independently meet personal care needs, economic self sufficiency (capacity for sustained and successful functioning is vocational, learning and employment contexts).

(ii) Use of language (ability to effectively understand, be understood, and handle communication as needed on a daily and ongoing basis).

(iii) Instrumental living skills (managing money, getting around in the community, grocery shopping, complying with prescription requirements, meal planning and preparation, mobility).

(iv) Self direction skills (making decisions/choices about one’s day-to-day activities and regarding one’s future.) “Persons with special needs” shall also include persons legally responsible for caring for persons with special needs.

(cc) “Predevelopment costs” means reimbursable costs, related to a specific eligible housing, downtown, or adjacent neighborhood project, that meet all of the following:

(i) Predevelopment project costs that are determined to be customary and reasonable by the authority, including but not limited to, consulting fees, architectural fees, engineering fees, and costs related to the engagement of a development team, costs related to establishing site control, and costs related to title clearance.

(ii) Pre-construction project costs that are determined to be customary and reasonable by the authority, including but not limited to, the costs of obtaining architectural plans and specifications, zoning approvals, engineering studies, and legal fees.

(iii) Predevelopment costs do not include general operational or administrative costs.

(zd) “Project” means those activities defined under MCL 125.1458C.

(ee) “Recipient” means an eligible applicant receiving funds or other assistance under the program. The term recipient shall also include a subrecipient and any requirement applying to a recipient shall likewise apply to a subrecipient.

(ff) “Rental housing project” means a housing development consisting of 1 or more dwelling units that will be rented to individuals or families meeting applicable occupancy and income requirements related to the nature of the housing unit or development.

(gg) “RFP” means “request for proposals.” An RFP is an announcement of a willingness to consider proposals requesting the awarding of program funds for a particular use or uses related to the fund or program.

(hh) “Special purpose entity” means a legal entity created for the primary purpose of sponsoring, originating, creating, sustaining, or assisting the provisioning of housing to low, very low, or extremely low income households the costs of which, if not funded from other sources, are reasonably fully payable out of the persons monthly income, including earned income, grants, or other public or non-public assistance.

(ii) “State” means the state of Michigan and any state level component units thereof.

(jj) “Statute” means the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 et seq.

(kkgg) “Supportive housing” means a rental housing project in which some or all of the units are targeted to persons with household incomes at or below 30% of area median income and that provide services, either directly or contracted for, to those persons with special needs that include, but are not limited to, mental health services, substance abuse services, counseling services, and daily living services.

(ll) “Very low income household” means a person, a family, or unrelated persons living together whose adjusted household income is not more than 50% of the median income, as determined by the authority.

Rule 125.192 Basic eligible activities; ineligible activities.

Rule 192. (1) Housing and community development program funds may be used for the following activities:

(a) Acquisition activities. Acquisition in whole or in part by the recipient, by purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any purpose authorized by the program.

(b) Rehabilitation, clearance, and remediation activities. Rehabilitation activities include clearance, demolition, and removal of buildings and improvements, movement of structures to other sites, and remediation of known or suspected environmental contamination for a current or proposed housing development or project located in a downtown area or adjacent neighborhood. Demolition of HUD-assisted or HUD-owned housing units may be undertaken only with the prior approval of HUD.

(c) New construction of housing activities or projects located in a downtown area or adjacent neighborhood. Construction of a housing development or projects located in a downtown area or adjacent neighborhood, including housing assisted under federal or state law, through the incurrence of development costs and predevelopment costs.

(d) Activities incurring development costs and predevelopment costs.

(e) Preservation of existing housing or activities related to the preservation of existing housing.

(f) Activities related to community development projects, infrastructure improvements, economic development projects, blight elimination, and community facilities. Activities under this category shall include acquisition, construction, reconstruction, rehabilitation or installation of community facilities and infrastructure improvements or other incurrence of development costs or predevelopment costs carried out by the recipient. In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving assistance. Such community facilities include, but are not limited to, shelters for the homeless; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims.

(g) Activities incurring insurance costs related to any purpose authorized by the program.

(h) Activities involving operating, replacement and other reserves related to any purpose authorized by the program.

(i) Activities providing down payment and other direct homeownership assistance to low, very low, or extremely low income households.

(j) Activities providing security deposit assistance to low, very low, or extremely low income households.

(k) Supportive services activities (including labor, supplies, and materials) for Activities providing foreclosure prevention or foreclosure assistance to low, very low, or extremely low income households, INCLUDING BUT NOT LIMITED TO THOSE CONCERNED WITH EMPLOYMENT, CRIME

PREVENTION, CHILD CARE, HEALTH, DRUG ABUSE, EDUCATION, FAIR HOUSING COUNSELING, ENERGY CONSERVATION, WELFARE, HOMEBUYER DOWNPAYMENT ASSISTANCE, OR RECREATIONAL NEEDS TO A PERSON, PERSON WITH DISABILITIES OR PERSON WITH SPECIAL NEEDS. TO BE ELIGIBLE FOR ASSISTANCE, A SUPPORTIVE SERVICE MUST BE EITHER A NEW SERVICE OR A QUANTIFIABLE INCREASE IN THE LEVEL OF AN EXISTING SERVICE ABOVE THAT WHICH HAS BEEN PROVIDED IN THE 12 CALENDAR MONTHS BEFORE THE SUBMISSION OF THE FUNDING APPLICATION. .

(l) Activities related to individual development accounts established under the individual or family development account program act, 2006 PA 513, MCL 206.701 to 206.711.

(m) Activities related to ending homelessness.

(n) The provision of assistance either through the recipient directly or through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients) to facilitate economic development projects or activities that support housing development that does the following:

(i) Provides financial support for the establishment, stabilization, and expansion of business enterprises.

(ii) Provides technical assistance, advice, and business support services to owners of business enterprises and persons developing business enterprises.

(iii) Provides general support, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, to owners of business enterprises and persons developing business enterprises.

(iv) Assistance under this subdivision may also include training, technical assistance, or other support services to increase the capacity of the recipient or subrecipient to carry out the activities under this subdivision.

(o) Assistance activities provided to public or nonprofit entities, including municipalities and land bank fast track authorities organized under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774, to increase the capacity of such entities to carry out program eligible housing development, neighborhood revitalization or economic development activities.

(p) Predatory lending prevention or relief.

(q) Any other housing and community development fund or program activities authorized under the authority's act.

(2) Ineligible applicants include the following:

(a) An applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest, either failed to submit or is now delinquent in providing an explanation, evidence of corrective action or a payment of disallowed costs or fees as a result of a program funding monitoring review.

(b) An applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest, is currently delinquent on any loan payments or any fees due and payable to the authority.

(c) An applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest, has been or is barred, suspended, or terminated from procurement in a state or federal program or listed in the list of parties excluded from federal procurement or non-procurement programs or has otherwise been debarred by HUD or the authority.

(d) Any individual acting as an owner, member, principal, officer, manager or key employee of the applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest, has been convicted of a state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the application deadline.

(e) An applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest, at the time of application submission is subject to any of the following:

- (i) Enforcement or disciplinary action under state or federal securities law or by the NASD.
- (ii) A federal tax lien.
- (iii) An enforcement proceeding with any governmental entity.
- (f) An applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest has open and/or unresolved audit issues with HUD or the authority related to this program or other programs administered by HUD or the authority.
- (g) A submitted application is incomplete; lacks required supporting documentation; or is so unclear or disjointed that, in the discretion of the authority, it cannot reasonably be reviewed to determine whether it meets program criteria. If an application is determined to be ineligible pursuant to this rule, the application will be terminated. To the extent that the authority staff was able to complete a limited application review, specific reasons for the authority's determination of ineligibility shall be included in the termination letter to the applicant.
- (h) An applicant or recipient or a person who has or had a controlling interest in the applicant or recipient has an ownership interest or exercises control of 1 or more rental housing properties in the state of Michigan subject to a regulatory agreement or tax credit regulatory agreement with the authority and is in material noncompliance with such regulatory agreement or tax credit regulatory agreement.
- (i) Any application that includes financial participation by a person who, during the 5-year period preceding the date of the bid or award, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of any disaster occurring after January 1, 2000, or was assessed a federal civil or administrative penalty in relation to such a contract.
- (j) Applications for proposals which cause or result in the permanent displacement of low, very low, or extremely low income households. Low, very low, or extremely low income households who may be temporarily displaced by the rehabilitation of affordable housing may be eligible for compensation of moving and relocation expenses. If a recipient violates the dislocation provisions of this subsection, that recipient shall repay program monies and the landlord/developer must pay the affected parties' costs and all moving expenses.

## PART 9A. APPLICATION, EVALUATION, AND PROGRAM REQUIREMENTS

### R 125.193 Application procedures and requirements.

Rule 193. (1) Applications received by the authority in response to a NOFA or RFP shall be handled in the following manner:

- (a) The authority will accept applications on an ongoing basis during the application acceptance period as specified in the NOFA or RFP.
- (b) Applications submitted and accepted by the authority shall be reviewed in the following manner:
  - (i) Authority staff shall review all applications for eligibility, threshold, and selection criteria and ensure that all application requirements have been met.
  - (ii) Authority staff shall review applications to ensure that they are in accordance with the NOFA or RFP and applicable law.
  - (iii) Authority staff may issue a notice of any administrative deficiencies related to applications reviewed.
  - (iv) Authority staff shall conduct a comprehensive review of financial feasibility for development activities proposed in any application deemed acceptable under subdivision (b)(i) to (b)(v) of this subrule.
  - (v) Authority staff shall create a report setting forth the recommended terms, amount, and any conditions related to the proposed loan, grant, or project.



(2) Upon completion of staff review and any associated resolution of any applicable administrative deficiencies, applications which the review committee reviews, scores, and selects for award will be recommended to the authority for approval.

(3) If an application contains deficiencies which, in the determination of the authority staff, require clarification or correction, the authority staff may request clarification or correction of the administrative deficiencies, including threshold and/or selection criteria documentation and/or financial feasibility analysis.

(a) Requests for clarification or correction may be sent to the applicant in the form of a facsimile, e-mail, and/or be relayed to the applicant via a telephone call and documented in the application file.

(b) An applicant may not change or supplement any part of an application in any manner after submission to the authority, increase the award amount, or revise the unit mix (both income levels and bedroom mixes), except to remedy an administrative deficiency.

(4) The authority may decline to fund any application if the proposed activities do not, in the authority's sole determination, represent a prudent use of the housing and community development fund funds.

(5) The authority is not obligated to proceed with any action pertaining to any applications which are received, and may decide it is in the authority's best interest to refrain from pursuing any selection process.

(6) The authority may negotiate individual elements of any application.

(7) The authority may conduct a site review. Applicants must receive recommendation for approval from the authority staff and the review committee to be considered for funding by the authority.

#### Rule 125.194 Evaluation criteria for funding; other program requirements.

Rule 194. (1) Requests for funding scoring the highest on the criteria explained in subrule (2) of this rule are most likely to be awarded funds.

(2) The following criteria will be used in evaluating the responses to any NOFA or RFP:

(a) To be eligible for funding, an applicant must first demonstrate that it meets each of the following threshold criteria:

(i) The application is consistent with the requirements established in the statute, this rule, the NOFA, or the RFP.

(ii) If the application involves either a rental housing project or a home ownership project, the application requests funding for a project which sets aside at least 20% of the rental units or housing units in the project for households earning not more than 60% of the median income.

(iii) The application includes a letter of support from the highest ranking elected official for each of the jurisdictions served by the proposed project.

(iv) The application meets the readiness to proceed requirements established in the NOFA or the RFP.

(v) Any outstanding housing and community development fund predevelopment loans for the same proposed development site must be paid in full at the time of loan closing for the current requested funds.

(b) Evaluation factors used to evaluate and score applications, as more fully described in a NOFA or RFP, will include at a minimum the following factors:

(i) The extent to which the proposal or project represents the leveraging of program funds.

(ii) The ability of the applicant, recipient, or both to administer the funding award effectively and deliver results within program timelines.

(iii) The extent to which the proposal or project helps meet the 25% earmark provided in the statute for rental housing projects that do not qualify under preferences for special population groups, or other preferences contained in the allocation plan.

(iv) The extent to which the proposal or project helps meet the 30% earmark provided in the statute for projects that target extremely low income households, including developing housing for the homeless, supportive housing, transitional housing, and permanent housing.

(v) The extent to which the proposal helps meet the statutory requirement that a portion of the fund be expended for persons with physical or mental handicaps and persons living in eligible distressed areas.

(3) Other program requirements include the following:

(a) All uses of program funds shall comply with the applicable income limitations contained in the act, these rules, the annual plan, the applicable NOFA or RFP, and any statements or representations made in any application or other documentation submitted as a part of any application, reporting or other monitoring related to any award of program funds.

(b) A rental housing project assisted by the fund must set aside at least 20% of the housing units in the project for households earning not more than 60% of the area median income.

(c) A home ownership project assisted by the fund must set aside at least 20% of the housing units in the project for households earning not more than 60% of the area median income.

(d) If the housing funded by the program is rental housing, the owner or manager of the housing must agree in writing not to evict a tenant without just cause, as defined in section 44a of 1933 (Ex Sess) PA 18, MCL 125.694a.

(e) All assistance for housing and real property acquired or supported by program funds shall include an agreement, restriction, or real covenant related to the recapture of program funds upon sale, conversion, or disposition of the property if the recapture provisions of these rules are triggered.

R 125.195 Biennial plan; allocations; earmarks; carryover.

Rule 195. Pursuant to the statute, the authority shall biennially develop, propose, and establish a biennial plan related to the program. The biennial plan shall be issued pursuant to the requirements of the statute and all of the following:

(a) The authority shall, as a part of the biennial plan, issue an allocation plan related to the disbursement of program funds.

(b) The authority's biennial plan and allocation plan shall contain an allocation formula related to the disbursement of program funds.

(c) The following statutory earmark and lookback procedures shall apply to any biennial plan, allocation plan, and allocation formula:

(i) The following statutory earmarks shall be included in the biennial plan, allocation plan, and allocation formula:

(A) Not less than 25% of the dollars used for loans or grants made in any program year shall be earmarked for rental housing projects that do not qualify under preferences for special population groups, or other preferences contained in the allocation plan.

(B) Not less than 30% of the dollars used for loans or grants made in any program year shall be earmarked for projects that target extremely low income households and include housing for the homeless, supportive housing, transitional housing, or permanent housing.

(C) A portion of the fund shall be expended for housing for persons with physical or mental handicaps and persons living in eligible distressed areas.

(ii) After the completion of any application receipt, review, selection, and approval process related to any biennial plan, allocation plan or allocation formula in any program year, the authority shall look back and review the intended distribution of the program funds for that year and determine whether the earmark requirements in this rule and in statute will be met under the proposed distribution. If the earmark requirements are not met, and eligible applications meeting the earmark requirements have been received, accepted, and have not otherwise been approved for funding, the authority shall revise

the proposed distribution to comply with the applicable earmark requirements. The revised plan shall be presented to and approved by the authority.

(iii) Uncommitted funds at the end of any program year shall be carried over and used under the applicable biennial plan, allocation plan, and allocation formula related to any subsequent program year.

R 125.196 Reporting requirements; program periods; compliance monitoring; review; recapture.

Rule 196. (1) The following provisions regarding reporting apply:

(a) All recipients of program funds shall report back to the authority on a semiannual basis about their use of program funds. The authority shall collect information from recipients to establish that the funds are being spent correctly and to measure the results or performance of its spending against the objectives of the program.

(b) The authority will establish as a part of each biennial plan reporting forms that shall be submitted by the recipients on a semiannual basis. These reports shall include both a performance monitoring form and a financial monitoring form.

(c) The performance monitoring form shall be signed by the chief executive officer of the recipient and shall analyze the management performance of the recipient, specifically including a description of the following items:

(i) What was done with the program funds and whether what was done was consistent with the goals and strategies outlined in the application.

(ii) How well it was done, including a discussion of how success or failure will be measured.

(iii) Who has benefited from the distribution of program funds, including details on results.

(d) The financial monitoring form shall be signed by the chief financial officer of the recipient and shall analyze the financial performance of the recipient. Program funds shall be used in an efficient, effective, and appropriate manner, consistent with program objectives and priorities, including community needs. Program funds shall also be appropriately and properly accounted for with documentation that adequate safeguards have been instituted by the recipient to ensure that there is not misuse of program funds.

(2) The following provisions apply to program periods and extensions:

(a) The initial program period for any loan or grant awarded under the program 2 years from date of the award of program funds. All activities related to the use of program funds shall be completed within this 2-year time frame. Any program monies outstanding on the date which is 2 years from the date of the award are subject to the recapture provisions of this rule and shall be immediately repaid to the authority.

(b) Recipients must maintain compliance with each of its contracts with the authority.

(c) Recipients must comply with any restrictions that are stated and enforced through a regulatory agreement or any other legal document associated with any award of program funds. These restrictions may include, but are not limited to, the following:

(i) Rent restrictions.

(ii) Record keeping and reporting.

(iii) Income targeting of tenants.

(d) The authority monitors compliance with project restrictions and any other covenants by recipient in any housing and community development fund agreement. An annual compliance fee of up to \$75.00 per unit may be charged for this review.

(3) The authority executive director shall name a review committee who shall meet to consider, review, score, and recommend for approval program funding awards and award amounts based on applications received in any program funding round. The review committee shall meet to formally review the applications and shall make recommendation to the authority regarding the total awards to be made in

any application year and the amount and recipient of the proposed awards. Each member of the committee shall complete a scoring sheet detailing the member's evaluation and score of the application on the various evaluation factors or criteria. The committee shall make any funding award recommendation decisions based on the scoring of these factors or criteria, subject to revision under the applicable earmark requirements. All decisions of the committee shall be made based on the scoring outcomes and/or by majority vote as applicable. The authority shall have final authority to approve or disapprove of any funding award recommendation made by the review committee.

(4) Recapture of program funds shall be accomplished as follows:

(a) The authority shall have the power to recapture or de-obligate program funds and program awards in certain circumstances. The power to recapture or deobligate funds can apply to entire awards or portions of awards. Recaptured or deobligated funds shall be re-deposited in the fund and shall be used to make future awards in the current and next applicable program year or program funding round.

(b) The following reasons shall justify the deobligation or recapture of program funds:

(i) Inability of applicant or recipient to execute the program activity and obligate the program funds within the initial program period 2-year timeline.

(ii) Inability of the applicant or recipient to make draw downs of program funds on a regular and timely basis, such that the authority has grounds to question the overall viability of the project.

(iii) Substantial, significant, and lengthy noncompliance with the statute, rules, NOFA, RFP, application, biennial plan, allocation plan, allocation formula, program funding agreement or any other documentation or requirement related to any award. In making the decision on deobligation or recapture in this instance, the authority shall consider whether or not the non-compliance is due to factors beyond the applicant's and/or recipient's control.

(iv) If the total cost of the anticipated program activity is less than the total costs anticipated in the application or other documentation provided by the applicant and/or recipient, the authority can deobligate the portion of the award exceeding the actual costs of the program activity.

(v) At the end of the initial program period and any approved extension of that period, the unspent funds remaining in the program account, project account, or any other account related to the program activity shall be recaptured and returned to the fund.

(vi) If the applicant and/or recipient voluntarily returns the funds to the authority/fund and ceases all program activity and reporting upon the return of program funds.

(vii) Any other reason justifying recapture or deobligation approved by the authority, upon notice to the applicant and/or recipient of both the authority's consideration of a recapture or obligation decision and notice that the authority has approved a resolution or motion evidencing its decision to recapture or deobligate the funds.

#### R 125.197 Hearings procedures.

Rule 197. Hearing procedures shall include citizen participation as follows:

(a) The authority shall hold at least 3 public hearings in separate locations throughout the state biennially on the program priorities for the upcoming 2-year period. At the hearings, the authority shall solicit comments from the public, eligible applicants, and administrators and development owners on the housing and community development fund and program rules, guidelines, and procedures related to the housing and community development fund and program.

(b) The authority shall consider the comments received at public hearings. Biennially, the authority shall review the performance, administration, and implementation of the housing and community development fund in light of public comment it receives. The authority shall also review the biennial plan, allocation plan and allocation formula, funding goals, and earmarks relating to allocation and award of housing and community development fund monies.

(c) The authority shall submit an annual report to the governor and the legislature under MCL 125.1458b (6). The authority shall include the statutorily required information in the annual report, as well as any other information that the authority staff, review committee or authority board believe would enhance the understanding that the elected officials and citizens of the state have regarding the operation of the program.

(d) After the applicable application deadline related to the NOFA or RFP, applications for housing and community development funds are public information subject to release under the freedom of information act (FOIA) MCL 15.231 to 15.246, and the authority shall afford the public an opportunity to comment on proposed housing applications prior to the making of awards.

(e) Prior to any proposed change to these rules, the authority shall conduct a public hearing in accordance with the provisions of the administrative procedures act, MCL 24.201 to 24.328.

R 125.198 Michigan housing and community development fund advisory committee

Rule 199. Records maintenance requirements for applicants and recipients include the following: 198. Pursuant to MCL 125.1458e, the authority shall seek the advice of the Michigan housing and community development fund advisory committee on all of the following:

(a) In addition to any regular reporting obligations provided under R 125.193, applicants, recipients, or both are required to maintain records on each of the following issues and shall, upon the written request of authority, submit information to the authority on any program activity or administration issues, which may include, but are not limited to the following:

(i) Such information as may be necessary to determine whether a project is benefiting low, very low, and extremely low-income households.

(ii) The monthly rent or mortgage payment for each dwelling unit in each structure assisted.

(iii) Such information as may be necessary to determine whether the applicant and/or recipient has carried out their housing or community development activities in accordance with the requirements and primary objectives of the housing and community development fund and implementing regulations.

(iv) The size and income of the household for each unit occupied by a low, very low, and extremely low-income households.

(v) Data on the extent to which any racial and ethnic group and households have applied for and benefited from any project or activity funded in whole or in part with funds made available under this program. This data shall be updated annually.

(vi) A final statement of accounting upon completion of the project.

(vii) Any other information reasonably within the applicant's or recipient's ability to determine and to report to the authority related to the award.

(b) Applicants or recipients, or both, shall maintain records pertinent to the tenant's files for at least 3 years.

(c) Applicants or recipients, or both, shall maintain records pertinent to funding awards including, but not limited to, project costs and certification work papers for at least 5 years.

(d) Applicants or recipients, or both, shall maintain records in an accessible location. (a) Recommendations for the biennial allocation plan required under MCL 125.1458b.

(b) Fund expenditure review, including whether the expenditures are distributed fairly and equitably, whether the expenditures satisfy the housing needs and priorities in this state, and whether the expenditures satisfy the economic needs and priorities in this state.

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**PROPOSED ADMINISTRATIVE RULES,  
NOTICES OF PUBLIC HEARINGS**

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*MCL 24.242(3) states in part:*

*“... the agency shall submit a copy of the notice of public hearing to the State Office of Administrative Hearings and Rules for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the State Office of Administrative Hearings and Rules.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

*\* \* \**

*(d) Proposed administrative rules.*

*(e) Notices of public hearings on proposed administrative rules.”*

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**PROPOSED ADMINISTRATIVE RULES**

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SOAHR 2009-011

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH  
BUREAU OF HEALTH POLICY, PLANNING AND ACCESS  
EMS AND TRAUMA SERVICES SECTION  
STATEWIDE TRAUMA SYSTEM

Filed with the Secretary of State on

These rules take effect immediately after filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the department of community health by sections 9227 and 20910 of 1978 PA 368, MCL 333.9227 and 333.20910; 2004 PA 580, 2004 PA 581, 2004 PA 582, and Executive Reorganization Order Nos. 1996-1 and 2003-1, ~~being~~ MCL 333.20917a, 333.20908, 333.20910, 330.3101, and 445.2011.

Draft April 27, 2009

R 325.129 is ~~being~~ amended as follows:

PART 1. GENERAL PROVISIONS

R 325.129 Powers and duties of ~~the~~ department.

Rule 5. ~~Subject to appropriations,~~ (1) The department, with the advice of the emergency medical services coordinating committee and statewide trauma care advisory subcommittee, contingent upon sufficient funding being appropriated, shall do all of the following:

(a) Implement an “all-inclusive” trauma system throughout the state. This type of system allows for the care of all injured patients in an integrated system of health care in the pre-hospital and healthcare facility environments by personnel that are well trained and equipped to care for injured patients of any severity. The system allows for a healthcare facility to participate in the system to the extent or level that it is willing to commit the resources necessary for the appropriate management of the trauma patients and prohibits the department from limiting the number of health care facilities that seek to qualify for any given level of trauma designation under this system. It also ensures that all trauma patients are served by a system of coordinated care, based on the degree of injury and care required.

(b) Establish a statewide trauma quality improvement process using a statewide database, which is compatible with trauma, emergency departments, and pre-hospital data systems, monitor the statewide trauma system; ensure the coordination and performance of the regional trauma networks; and set minimum standards for system performance and trauma patient care.

(c) Assign a dedicated state EMS/trauma medical director and supporting resources consistent with the criteria in the 2004 Michigan trauma systems plan, pursuant to MCL 333.20910.

(d) Implement and maintain a statewide plan for a trauma system for **this state Michigan**, that addresses all of the following:

- (i) State leadership.
- (ii) Public information and prevention.
- (iii) Human resources.
- (iv) Communications.
- (v) Medical direction.
- (vi) Triage.
- (vii) Transport.
- (viii) Trauma care facilities.
- (ix) Inter-healthcare facility transfers.
- (x) Rehabilitation.
- (xi) Evaluation of trauma patient care and the trauma system.

(e) Ensure integration of the trauma and Emergency Medical Systems (EMS), including all pre-hospital and organ procurement organization components.

(f) Develop a statewide process to establish regional trauma networks comprised of local Medical Control Authorities (MCAs) in a manner that integrates into existing regional emergency preparedness, EMS, or medical control systems.

(g) Develop a statewide process for the verification of trauma resources.

(h) Develop a statewide process for the designation of trauma facilities.

(i) Develop an appeals process for facilities contesting their designation.

(j) Establish state trauma recommendations and approve regional trauma triage protocols which are established and adopted by the local medical control authority.

(k) Establish regional trauma networks, consistent with the current emergency preparedness regions, ~~in order~~ to provide system oversight of the trauma care provided in each region of the state. Regional trauma networks shall be comprised of collaborating local medical control authorities (MCAs) in a region. The collaborating MCAs in a region shall apply to the department for approval and recognition as a regional trauma network. The department, with the advice and recommendation of the statewide trauma care advisory subcommittee and emergency medical services coordinating committee, shall review the appropriateness of the regional structure every 3 years. The establishment of the regional trauma networks shall not limit the transfer or transport of trauma patients between regional trauma networks.

(l) Implement Tiered Triage Protocols. Major trauma patients requiring the resources of a Level I Regional Trauma Research Facility or Level II Regional Trauma Facility shall be identified by adult and pediatric field triage criteria established by the regional trauma networks. Protocols, which are established and adopted by local medical control, may be developed based on the standards incorporated by reference in these rules, Resources for Optimal Care Of The Injured Patient 2006 ; Committee On Trauma American College of Surgeons, available at a cost of \$25.00 from the American College of Surgeons, 633 N. Saint Clair St. Chicago, Illinois 60611-3211, and those contained in R 325.135. A copy is also available at cost from the EMS & Trauma Systems Section, 201 Townsend Street, Lansing, MI 48913. ~~Tables 1 & 2 apply to adult and pediatric triage criteria:~~

#### ~~Table I~~

#### ~~Model Adult Trauma Triage Criteria & Methodology~~

~~The EMT or paramedic shall assess the condition of those injured persons with anatomical and physiological characteristics of a person 15 years of age or older for the presence of at least 1 of the~~



following criteria to determine whether to transport as a trauma alert. These criteria are to be applied in the order listed, and once any 1 criterion is met that identifies the patient as a trauma alert, no further assessment is required to determine the transport destination.

Criteria:

1. GCS  $\leq$  13
2. Meets color-coded triage system (see below)
3. Meets local criteria (specify) \_\_\_\_\_
4. Patient does not meet any of the trauma criteria listed above but, in the judgment of the EMT or paramedic, should be transported as a trauma alert (document) \_\_\_\_\_

Component ▼Blue▼		▼Red▼
Airway	Respiratory rate of 30 or greater	Active airway assistance <sup>+</sup> or RR < 10 or flail chest
Circulation	HR of 120 beats per minute or greater	Lack of radial pulse with systolic BP, 90 mmHg
Best Motor Response <sup>2</sup>	BMR = 5	BMR = 4 or less or presence of new paralysis, or suspicion of spinal cord injury or loss of sensation
Cutaneous	Soft tissue loss <sup>3</sup> or penetrating injury to extremities distal to knee or elbow	Amputation proximal to the wrist or ankle or any penetrating injury <sup>4</sup> to head, neck, or torso or extremity at or proximal to elbow or knee.
Fracture	Single FX site due to trauma excluding ground level fall	Fracture or two or more long bones <sup>5</sup> or pelvic fracture
Age	55 years or older	
Mechanism of Injury	Prolonged extrication (>20 min.) evidence of high speed crash or significant vehicle damage or bent steering wheel or rollover, or motorcycle crash	Ejection from vehicle, death in same passenger compartment, pedestrian struck, falls >20 feet
Burns	<10% 2 <sup>nd</sup> or 3 <sup>rd</sup> degree	>10% 2 <sup>nd</sup> or 3 <sup>rd</sup> degree or burns to face, hands, feet, genitalia/perineum and major joints, electrical burn or lighting injury, chemical burns, inhalation injury, or burn injury in patient with pre-existing chronic medical condition

B = any 2 transport as a trauma alert — R = any 1 transport as a trauma alert

1. Airway assistance beyond administration of oxygen — 3. Major degloving injuries, or major flap avulsion (>5 in.)
2. Best Motor Response: — 6. Obeys movement commands — 4. Excluding superficial wounds in which the depth
- 5: Purposeful movement to pain — of the wound the can be determined
- 4: Withdraws to pain — 5. Longbone defined as humerus or femur
- 3: Flexes to pain (decorticate posturing) —

- \_\_\_\_\_ 2: Extension response to pain (decelerate posturing)  
 \_\_\_\_\_ 1: No response

Table H  
 Model Pediatric Trauma Triage Criteria & Methodology

The EMT or paramedic shall assess the condition of those injured persons with anatomical and physiological characteristics of a person 14 years of age or younger for the presence of at least 1 of the following criteria to determine whether to transport as a trauma alert. These criteria are to be applied in the order listed, and once any 1 criterion is met that identifies the patient as a trauma alert, no further assessment is required to determine the transport destination.

Criteria:

1. Meets color-coded triage system (see below)
2. Meets local criteria (specify) \_\_\_\_\_
3. Patient does not meet any of the trauma criteria listed above but, in the judgment of the EMT or paramedic, should be transported as a trauma alert (document) \_\_\_\_\_

Component		▼Blue▼	▼Red▼
Size		Weight $\leq$ 11 Kg or length $\leq$ 33 inches on a pediatric length and weight emergency tape	
Airway			Active airway assistance <sup>1</sup> or crush injury to the chest
Consciousness		Amnesia or loss of consciousness	Altered mental status <sup>2</sup> or coma or presence or paralysis or suspicion of spinal cord injury or loss of sensation
Circulation		Carotid or femoral pulses palpable, but the radial or pedal pulse not palpable or SBP $<$ 90 mm of Hg <sup>2</sup>	Lack of radial pulse with systolic BP $<$ 90 mmHg <sup>2</sup>
Fracture (FX)		Single closed long bone <sup>4</sup> fracture <sup>5</sup>	Open long bone <sup>4</sup> fracture <sup>6</sup> or multiple fracture sites or multiple dislocations <sup>6</sup>
Cutaneous			Major soft tissue disruption <sup>7</sup> or major flap avulsion or 2 <sup>nd</sup> or 3 <sup>rd</sup> degree burns to $\geq$ 10% TBSA or amputation <sup>8</sup> or any penetrating injury to head, neck or torso <sup>9</sup>

B – any 2 transport as a trauma alert

R – any 1 transport as a trauma alert

1. Airway assistance beyond administration of oxygen
2. OR  $<$  70 + 2 x age in years
3. Altered mental states include drowsiness, lethargy, inability to follow commands, unresponsiveness to voice, totally unresponsive
4. Long bones include the humerus, (radius, ulna) femur, (tibia or fibula)
5. Long bone fractures do not include isolated wrist or ankle fractures
6. Long bone fractures do not include isolated wrist or ankle fractures or dislocations
7. Includes major degloving injury

~~8. Amputation proximal to ankle or wrist~~

~~9. Excluding superficial wounds where the depth of the wound can be determined~~

(m) Verify the trauma care resources of all healthcare facilities in **this state Michigan** over a 3-year period.

(n) Establish a mechanism for periodic re-designation of all healthcare facilities.

(o) Develop a comprehensive statewide data collection system that shall be phased in over a 5-year period.

(p) Formulate recommendations for the development of performance improvement plans by the regional trauma networks, consistent with those in R 325.135.

(q) Develop a process for trauma system performance improvement, which will include responsibility for monitoring compliance with standards, maintaining confidentiality, and **providing** periodic review of trauma facility standards. The following standards are incorporated by reference in these rules, as specified in R 325.129(2)(l) and R 325.135.

(r) Develop a process for the evaluation of trauma system effectiveness based on standards that are incorporated by reference in these rules, as specified in R 325.129(2)(l) and R 325.135.

(s) Coordinate and integrate appropriate injury prevention initiatives and programs.

(t) Support and fund the components of the state trauma system and the regional trauma networks and provide adequate staffing and resources to carry out its responsibilities and functions.

(u) Conduct an accurate assessment of the training and education needs and resources of trauma care personnel throughout the state.

(2) In developing a statewide trauma system, the department shall consider **all of** the following factors:

(a) Efficient implementation and operation.

(b) Decrease in morbidity and mortality.

(c) Cost effective implementation.

(d) Incorporation of national standards.

(e) Availability of funds **for implementation to implement**.

(3) The 2004 Michigan Trauma Systems Plan may be periodically updated by the statewide trauma advisory subcommittee and the emergency medical services coordinating committee.

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**NOTICE OF PUBLIC HEARING**

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**NOTICE OF PUBLIC HEARING**  
**Statewide Trauma Systems**

The Department of Community Health will hold a public hearing on Monday, June 1, 2009, at 9 a.m. at the Department of Community Health, 201 Townsend, 1<sup>st</sup> Floor, Conference Center C, Lansing, Michigan.

The public hearing is being held to receive comments from interested persons on amendments to the Statewide Trauma Systems Administrative Rule. The proposed rules will change the incorrect “field triage” criteria removed so it does not conflict with national standards and prevents our state from being put at risk for deviating from the standard of care. Determining the appropriate facility to which an injured patient should be transported to based on the “field triage” criteria can have a profound impact on subsequent morbidity and mortality (Source: CDC-Guidelines for Field Triage of Injured Patients; January 23, 2009; Vol.58; No. RR-1).

These rules are being promulgated under the authority conferred on the department of community health by sections 9227 and 20910 of 1978 PA 368, MCL 333.9227 and 333.20910; 2004 PA 580, 2004 PA 581, 2004 PA 582, and Executive Reorganization Order Nos. 1996-1 and 2003-1, MCL 333.20917a, 333.20908, 333.20910, 333.3101, and 445.2011. These rules are proposed to take effect immediately upon filing with the Secretary of State.

Hearing comments may be presented in person, with written comments available at the time of presentation. Written comments also will be accepted at the following address or E-mail address until 4:30 p.m. on Monday, June 1, 2009. Address communications to:

Department of Community Health  
Office of Legal Affairs - 201 Townsend - Lansing, MI 48909  
Attention: Mary Greco  
E-mail address: [grecom@michigan.gov](mailto:grecom@michigan.gov) Phone: (517) 373-3772

A copy of the proposed rules may be obtained by contacting the address noted above. Electronic copies also may be obtained at <http://www.michigan.gov/cis>.

All hearings are conducted in compliance with the 1990 Americans with Disabilities Act. Hearings are held in buildings that accommodate mobility-impaired individuals and accessible parking is available. A disabled individual who requires accommodations for effective participation in a hearing should call Laurie VanBeelen at (517) 335-1341 to make the necessary arrangements. To ensure availability of the accommodation, please call at least 1 week in advance.

Date: April 27, 2009

SOAHR # 2009-011-CH

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**EXECUTIVE ORDERS  
AND  
EXECUTIVE REORGANIZATION ORDERS**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

*(a) Executive orders and executive reorganization orders.”*

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**EXECUTIVE ORDERS**

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**EXECUTIVE ORDER  
No. 2009 – 22**

**IMPLEMENTATION OF EXPENDITURE REDUCTIONS UNDER  
SECTION 20 OF ARTICLE V OF THE MICHIGAN CONSTITUTION OF 1963**

WHEREAS, under Section 20 of Article V of the Michigan Constitution of 1963, the Governor, with the approval of the appropriating committees of the House of Representatives and the Senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based, and the reductions shall be made in accordance with procedures prescribed by law;

WHEREAS, it appears that actual revenues for the fiscal period beginning on October 1, 2008 and ending on September 30, 2009, will fall below the revenue estimates on which appropriations for that period were based, the estimates having been determined by the Legislature as required under Section 31 of Article IV of the Michigan Constitution of 1963;

WHEREAS, pursuant to Section 391 of The Management and Budget Act, 1984 PA 431, MCL 18.1391, on the basis of written information from the State Budget Director and the State Treasurer, it appears that actual revenues will fall below such revenue estimates;

WHEREAS, there is an unanticipated loss of funding that the departments and agencies of state government do not expect to obtain or make up during the current fiscal year;

WHEREAS, expenditure reductions totaling \$221,864,600.00 general fund-general purpose and \$127,472,600.00 special purpose funds are necessary;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor under the Michigan Constitution of 1963 and Michigan law, and with the approval of a majority of members of each appropriations committee, order the following reductions in expenditures:

A. Portions of general fund-general purpose expenditures authorized by appropriations amounting to \$221,864,600.00 contained in the following public acts are hereby reduced. Where the expenditure reductions of general fund-general purpose appropriations in this Order reduce the restricted portions of gross appropriations and sources of financing that will be earned, the amounts to be reduced shall be provided separately to the State Budget Director for approval and entry into the accounts.

Reduction		
Public Act	Department	Amount
2008 PA 253	Agriculture	\$3,455,100
2008 PA 261	Attorney General	1,729,800
2008 PA 261	Civil Rights	655,800
2008 PA 246	Community Health	53,095,500
2008 PA 245	Corrections	10,470,400

2008 PA 212	Education	363,500
2008 PA 251	Energy, Labor and Economic Growth	13,068,900
2008 PA 247	Environmental Quality	5,165,100
2008 PA 261	Executive Office	279,200
2008 PA 254	History, Arts, and Libraries	1,815,800
2008 PA 248	Human Services	97,484,800
2008 PA 261	Management and Budget	2,987,000
2008 PA 214	Military and Veterans Affairs	2,234,800
2008 PA 252	Natural Resources	572,900
2008 PA 268	School Aid	7,000,000
2008 PA 261	State	1,335,000
2008 PA 249	State Police	15,169,400
2008 PA 261	Treasury	4,981,600
	TOTAL	\$221,864,600

B. The reduction totals for the departments and offices in Section A include the following appropriation items or are predicated upon the following actions:

1. Department of Agriculture

Appropriation

Number	Item	Reduction Amount
01050	Unclassified positions	35,000
01210	Management services	150,000
01275	Internal audit services	47,500
01420	Rent and building occupancy charges	513,200

02205	Pesticide and plant pest management	150,000
02365	Bovine tuberculosis program	1,466,800
02530	Laboratory services	100,000
03120	Environmental stewardship	345,000
03908	Local conservation districts	160,000
30000	Information technology services and projects	89,300
		3,056,800

2. Department of Attorney General

Appropriation

Number	Item	Reduction Amount
01040	Attorney general operations	1,259,600
06100	Information technology services and projects	6,400
		1,266,000

3. Department of Civil Rights

Appropriation

Number	Item	Reduction Amount
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01000	Civil rights operations	466,700	
02100	Information technology services and projects	22,500	
		489,200	

#### 4. Department of Community Health

##### Appropriation

Number	Item	Reduction Amount	
01130	Mental health/substance abuse program administration	92,000	
01161	Protection and advocacy services support	97,200	
01176	Mental health initiatives for older persons	262,300	
01751	Severance pay	216,900	
02966	Community mental health non-Medicaid services	10,000,000	
02967	Respite services	250,000	
02969	Mental health court pilot programs	800,000	
04000	Center for forensic psychiatry	300,000	
11230	Public health administration	69,000	
11232	Worker's compensation program	900,000	
11256	Rural health services	29,000	
11300	Office of long-term care and supports and services	90,000	
11364	African-American male health initiative	42,800	
11374	Injury control intervention project	200,000	
12263	Local public health operations	1,535,600	
12273	Implementation of 1993 PA 133, MCL 333.17015	30,000	
13461	Community substance abuse prevention, education, and treatment programs	1,539,800	
13467	State disability assistance program substance abuse services	106,700	
13469	Methamphetamine cleanup fund	40,000	
14259	Special projects	12,500	
14276	Migrant health care	34,000	
14281	Family planning local agreements	75,000	
14289	Prenatal care outreach and service delivery support	202,800	
14355	Medical care and treatment	275,000	
15158	Asthma prevention and control	55,700	
16753	Sexually transmitted disease control management and field support	582,900	
16773	Sexually transmitted disease control local agreements	137,500	
16778	Immunization local agreements	350,000	
33500	Hospital services and therapy	5,310,200	
33520	Physician services	842,100	
33540	Pharmaceutical services	1,616,100	
33550	Health plan services	8,062,300	
33570	Transportation	1,271,100	
33580	Auxiliary medical services	537,800	
33600	Ambulance services	147,900	



33630	Single point of entry	2,100,000
33660	Dental services	1,433,600
33680	Long-term care services	8,467,000
33810	Personal care services	197,000
34500	Health information technology initiatives	1,072,600
46511	Community services	661,900
46512	Nutrition services	479,400
46513	Senior companion volunteer program	85,900
46516	Foster grandparent volunteer program	119,600
46517	Retired and senior volunteer program	33,600
46519	Senior olympics	20,000
		50,784,800

The amount in Section 412 of 2008 PA 246 is reduced by \$157,105.00.

The amount in Section 482 of 2008 PA 246 is reduced by \$11,251.00.

The amount in Section 1031(1) of 2008 PA 246 is reduced to \$200,000.00.

The amount in Section 1694 of 2008 PA 246 is reduced to \$521,300.00.

The amount in Section 1742 of 2008 PA 246 is reduced to \$750,000.00.

## 5. Department of Corrections

### Appropriation

Number	Item	Reduction Amount
01050	Executive direction	1,900
02060	Operations support administration	3,900
17510	Northern region clinical complexes	6,500
17530	Southeastern region clinical complexes	8,200
22250	Field operations	53,400
23322	Special alternative incarceration program – Cassidy Lake	10,100
25281	Community re-entry centers	24,000
29507	Correctional facilities administration	5,100
29512	Transportation	403,600
30522	Jackson area support and services – Jackson	25,100
32002	Charles E. Egeler correctional facility – Jackson	13,600
34002	Parnall correctional facility – Jackson	12,000
35002	Cooper Street correctional facility – Jackson	16,500
36002	G. Robert Cotton correctional facility – Jackson	11,500
46002	Alger maximum correctional facility – Munising	12,300
47002	Baraga maximum correctional facility – Baraga	12,200
48002	Carson City correctional facility – Carson City	15,200

49002	Chippewa correctional facility – Kincheloe	17,400
50002	Kinross correctional facility – Kincheloe	28,200
51002	Marquette branch prison – Marquette	19,000
52002	Oaks correctional facility – Eastlake	12,800
53002	Standish maximum correctional facility – Standish	25,100
54002	Newberry correctional facility – Newberry	15,200
55002	Ojibway correctional facility – Marenisco	12,600
56002	Pugsley correctional facility – Kingsley	13,200
61002	Richard A. Handlon correctional facility – Ionia	13,800
62002	Ionia maximum correctional facility – Ionia	6,500
66002	Muskegon correctional facility – Muskegon	11,800
67002	Bellamy Creek correctional facility – Ionia	7,700
69002	St. Louis correctional facility – St. Louis	15,300
70002	Pine River correctional facility – St. Louis	7,600
72002	Earnest C. Brooks correctional facility – Muskegon	26,600
74002	Michigan reformatory – Ionia	25,400

75002	Huron Valley correctional complex – Ypsilanti	17,100
77002	Lakeland correctional facility – Coldwater	17,700
79002	Gus Harrison correctional facility – Adrian	12,900
80002	Thumb correctional facility – Lapeer	7,100
82002	Robert Scott correctional facility – Plymouth	14,100
83002	Saginaw correctional facility – Freeland	9,200
86002	Ryan correctional facility – Detroit	8,600
87002	Mound correctional facility – New Haven	9,100
89002	Macomb correctional facility – New Haven	10,900
		1,000,000

## 6. Department of Education

### Appropriation

Number	Item	Reduction Amount
01605	Central support	16,500
04201	Special education operations	57,500
06101	School improvement operations	218,500
07501	School finance and school law operations	3,500
		296,000

## 7. Department of Energy, Labor and Economic Growth

### Appropriation

Number	Item	Reduction Amount
06000	Workforce programs administration	100,000
07304	Commission on Spanish-speaking affairs	15,000
08203	Workforce training programs subgrantees	7,836,600

08270	Focus: HOPE	86,000	
09520	Michigan rehabilitation services	100,000	
09550	Vocational rehabilitation independent living	500,000	
11210	Commission for the blind	23,700	
11601	Administration	768,000	
11603	Board of magistrates and appellate commission	304,100	
11604	Wage and hour division	12,000	
14003	Michigan housing and community development fund	2,163,400	
18003	Michigan nursing corps	454,400	
27010	Fire marshal program	50,000	
27120	Fire fighters training council	495,000	
		12,908,200	

The amount in Section 431(7) of 2008 PA 251 is reduced to \$4,545,600.

The amount in Section 432a(1) of 2008 PA 251 is reduced to \$7,163,400.

The amounts in Section 432a(1)(b) of 2008 PA 251 are reduced to \$0.00.

The amount in Section 432a(5) of 2008 PA 251 is reduced to \$7,163,400.

The amount in Section 432a(6) of 2008 PA 251 is reduced to \$7,163,400.

The amount in Section 438(1) of 2008 PA 251 is reduced to \$0.00.

## 8. Department of Environmental Quality

### Appropriation

Number	Item	Reduction Amount
01017	Office of the Great Lakes	41,300
01345	Building occupancy charges	874,900
03326	Minerals wells management	73,400
04320	Pollution prevention and technical assistance	281,800
04620	Air quality programs	220,000
04709	Radiological protection program	50,000
04715	Underground storage tank program	821,900
04718	Aboveground storage tank program	175,000
04912	Drinking water and environmental health	60,000
04918	Water withdrawal assessment program	80,000
06051	Water pollution control and drinking water revolving fund	2,196,200
		4,874,500

## 9. Executive Office

### Appropriation

Number	Item	Reduction Amount
00139	Executive office	197,200
		197,200

#### 10. Department of History, Arts, and Libraries

##### Appropriation

Number	Item	Reduction Amount
01620	Cultural economic development	24,000
02001	Administration	26,000
02002	Arts and cultural grants	286,000
03050	Library of Michigan operations	344,500
03150	State aid to libraries	400,000
03300	Subregional state aid	20,200
04100	Historical administration and services	312,100
04180	Thunder Bay national marine sanctuary and underwater preserve	50,000
07511	Mackinac Island park operation	57,000
07516	Historical facilities system	57,000
		1,576,800

#### 11. Department of Human Services

##### Appropriation

Number	Item	Reduction Amount
11300	Michigan community service commission	50,000
11350	Demonstration projects	11,000
12080	Payroll taxes and fringe benefits	5,805,500
15100	AFC, children's welfare and day care licensure	3,500,000
16100	Information technology services and projects	165,000
16500	Child support automation	6,530,000
32500	Family independence program	1,778,300
32540	State supplementation	9,628,300
32550	Day care services	994,100
32580	State supplementation administration	297,300
32630	Indigent burial	953,300
32640	Emergency services allocations local offices	2,300,000
47290	Child care fund	20,000,000
47350	Community support services	100,000
62610	Field staff, salaries and wages	11,612,700
62910	Food stamp reinvestment	1,700,000
72150	Subsidized guardianship	3,974,000
72240	Family preservation and prevention services	145,700
72360	Black child and family institute	50,000

72600	ECIC, early childhood investment corporation	75,000
72760	Adoption support services	1,000,000
72810	Bridges toward responsible adulthood	200,000
72830	Communities in schools	150,000
72840	Kent county child welfare demonstration project	300,000
81450	Employment and training support services	10,439,000
83200	Legal support contracts	600,000
83300	Child support incentive payments	9,570,000
83400	State disbursement unit	500,000
		92,429,200

The amount in Section 309 of 2008 PA 248 is reduced to \$89,000.00.

The amount in Section 613 of 2008 PA 248 for the maximum allowable reimbursement limit for indigent burials is reduced to \$700.00 and distributions are reduced to the following amounts: for funeral directors, \$435.00; for cemeteries or crematoriums, \$165.00; and for the provider of the vault, \$100.00.

The amount in Section 658 of 2008 PA 248 is reduced to \$94,900.00.

The amount in Section 668(1) of 2008 PA 248 is reduced to \$187,500.00.

The amount in Section 693 (1) of 2008 PA 248 is reduced to \$0.00.

## 12. Department of Management and Budget

### Appropriation

Number	Item	Reduction Amount
00005	Information technology services and projects (Department of Management and Budget)	879,000
02816	Office of children's ombudsman	110,000
11000	Executive operations	5,000
12000	Administrative services	5,000
13000	Budget and financial management	160,000
16000	Business support services	105,000
19150	Information technology services and projects (Civil Service Commission)	200,000
19200	Agency services	325,600
19300	Executive direction	150,000
19500	Audit and compliance	265,500
19900	Human resources operations	160,100
		2,365,200

## 13. Department of Military and Veterans Affairs

### Appropriation

Number	Item	Reduction Amount
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01011	Headquarters and armories	200,000	
02011	Military training sites and support facilities	350,000	
03016	Special maintenance – state	200,000	
03700	D.J. Jacobetti veterans’ home	150,000	
03800	Information technology services and projects		3,200
05010	American legion	226,500	
05011	Disabled American veterans	187,200	
05012	Marine corps league	86,000	
05013	American veterans of WW II and Korea		118,700
05014	Veterans of foreign wars	226,400	
05015	Michigan paralyzed veterans of America		42,500
05016	Purple heart	40,400	
05019	Polish legion of American veterans	10,500	
05020	Jewish veterans of America	10,500	
05021	State of Michigan council – Vietnam veterans of America		40,800
05023	Catholic war veterans	10,500	
30000	Special maintenance, remodeling and additions		126,000
		2,029,200	

#### 14. Department of Natural Resources

##### Appropriation

Number	Item	Reduction	Amount
01001	Executive direction	10,000	
01005	Communications	25,000	
01092	Commission	2,000	
01093	Unclassified salaries	5,000	
01106	Budget and support services	2,000	
01107	Financial services	25,000	
01108	Grants management	50,000	
02132	Wildfire protection	14,000	
02156	Forest recreation	70,800	
02207	Natural resources heritage	46,800	
02211	Wildlife management	36,400	
02302	Water withdrawal assessment program		46,900
03116	General law enforcement	82,300	
08914	Information technology services and projects		2,400
		418,600	

#### 15. School Aid

The general fund amount in Section 11(1) of the State School Aid Act of 1979, 1979 PA 94, MCL 388.1611(1), for the fiscal year ending on September 30, 2009, is reduced to \$33,800,000.00.

#### 16. Department of State

##### Appropriation

Number	Item	Reduction Amount
14100	Department services – operations	155,800
15100	Regulatory services – operations	255,000
19100	Branch operations	534,400
19300	Central operations	100,000
45500	Information technology services and projects	300
		1,045,500

#### 17. Department of State Police

##### Appropriation

Number	Item	Reduction Amount
15010	Management services	268,400
22210	Standards and training	600,000
32010	Uniform services	1,500,000
32500	At-post troopers	4,768,400
42010	Laboratory operations	3,811,000
51140	Fleet leasing	2,200,000
61000	Information technology services and projects	860,000
		14,007,800

#### 18. Department of Treasury

##### Appropriation

Number	Item	Reduction Amount
01201	Treasury operations information technology services and projects	75,500
01308	Rent and building occupancy charges – property management services	43,600
01314	Travel	100,000
01900	Department services	12,500
01950	Program management	6,300
01960	Mail operations	10,400
02440	Property tax appeal program	500,000
02450	Revenue enhancement program	300,000
02480	Michigan business tax implementation	1,300,000
03501	Student financial assistance programs	23,800
04201	Supervision of the general property tax law	406,000
04501	Local finance	28,200
06301	Commercial forest reserve	16,900
06303	Swamp and tax reverted lands	5,300
09316	Senior citizen cooperative housing tax exemption program	316,500
09430	Grants to counties in lieu of taxes	1,300
09450	Special grants	106,000
30100	Economic development job training grants	1,166,200
		4,418,500

The amount in Section 952 of 2008 PA 261 is reduced to \$106,000.00.

# 19. Expenditure Reductions – Furlough Days

General fund/general purpose expenditures authorized by appropriations contained in the following public acts are reduced by the amounts listed for the following departments and offices resulting from the temporary layoff of personnel. The State Budget Director is authorized to take any and all related actions necessary to properly record the expenditure reductions resulting from the temporary layoff of personnel, including federal and state restricted revenue expenditures, as part of the financial transactions for the fiscal year ending September 30, 2009.

Public Act	Department	Amount	
2008 PA 253	Agriculture	\$398,300	
2008 PA 261	Attorney General	463,800	
2008 PA 261	Civil Rights	166,600	
2008 PA 246	Community Health	2,310,700	
2008 PA 245	Corrections	9,470,400	
2008 PA 212	Education	67,500	
2008 PA 251	Energy, Labor and Economic Growth	160,700	
2008 PA 247	Environmental Quality	290,600	
2008 PA 261	Executive Office	82,000	
2008 PA 254	History, Arts, and Libraries	239,000	
2008 PA 248	Human Services	5,055,600	
2008 PA 261	Management and Budget	621,800	
2008 PA 214	Military and Veterans Affairs	205,600	
2008 PA 252	Natural Resources	154,300	
2008 PA 261	State	289,500	
2008 PA 249	State Police	1,161,600	
2008 PA 261	Treasury	563,100	
	TOTAL	\$21,701,100	

C. Portions of appropriations financed with special purpose revenue amounting to \$117,522,600.00 contained in the following public acts are reduced as follows:

Public Act	Department	Amount	Reduction
2008 PA 253	Agriculture	\$7,677,800	
2008 PA 246	Community Health	4,592,600	
2008 PA 251	Energy, Labor and Economic Growth	14,000,000	
2008 PA 213	Higher Education	5,000,000	
2008 PA 248	Human Services	23,443,200	
2008 PA 275	Transportation	12,000,000	
2008 PA 261	Treasury	50,809,000	
	TOTAL	\$117,522,600	

D. The reduction totals for the departments and agencies in Section C include the following appropriation items or are predicated upon the following actions:

## 1. Department of Agriculture – State Services Fee Fund



Appropriation

Number	Item	Reduction Amount
03820	Office of racing commissioner	3,811,000
03920	Premiums – county and state fairs	1,466,800
		5,277,800

2. Department of Agriculture – Agriculture Equine Industry Development Fund

Appropriation

Number	Item	Reduction Amount
03910	Purses and supplements – fairs/licensed tracks	1,000,000
03930	Thoroughbred program	1,400,000
		2,400,000

3. Department of Community Health – Healthy Michigan Fund

Appropriation

Number	Item	Reduction Amount
11268	Minority health grants and contracts	225,000
11352	Cancer prevention and control program	397,700
11360	Smoking prevention program	272,500
11363	Diabetes and kidney program	377,500
11369	Physical fitness, nutrition and health	280,000
11380	Chronic disease prevention	275,000
11384	Alzheimer's information network	116,000
11387	Michigan Parkinson's foundation	20,000
11390	Tobacco tax collection and enforcement	152,500
11393	Morris Hood Wayne State University diabetes outreach	160,000
12271	Local health services	55,000
14251	Pregnancy prevention program	21,400
14254	Childhood lead program	250,000
14259	Special projects	275,000
14262	Local MCH services	61,500
14274	Dental programs	37,500
14281	Family planning local agreements	102,000
16758	Immunization program management and field support	81,600
16778	Immunization local agreements	437,500
33860	Special Medicaid reimbursement	75,000
46512	Nutrition services	167,000
		3,839,700

The amount in Section 1010 of 2008 PA 246 is reduced to \$150,000.00.

The amount in Section 1109(1) of 2008 PA 246 is reduced by \$37,500.00.

The amount in Section 1132 of 2008 PA 246 is reduced to \$300,000.00.

4. Department of Community Health – Michigan Health Initiative Fund

Appropriation

Number	Item	Reduction Amount
11356	AIDS and risk reduction clearinghouse and media campaign	540,400
		540,400

5. Department of Community Health – Merit Award Trust Fund

Appropriation

Number	Item	Reduction Amount
46520	Respite care program	212,500
		212,500

The amount in Section 1406 of 2008 PA 246 is reduced to \$4,787,500.00.

6. Department of Energy, Labor and Economic Growth – Temporary Assistance for Needy Families – Federal Funds

Appropriation

Number	Item	Reduction Amount
09530	Jobs, education and training program	14,000,000
		14,000,000

The amount in Section 442(1) of 2008 PA 251 is reduced to \$7,000,000.00.

7. Higher Education – Michigan Merit Award Trust Fund

Appropriation

Number	Item	Reduction Amount
80100	Michigan promise grant program	5,000,000
		5,000,000

8. Department of Human Services – Temporary Assistance for Needy Families – Federal Funds

Appropriation

Number	Item	Reduction Amount
32550	Day care services	9,530,000
32630	Indigent burial	71,700
72240	Family preservation and prevention services	954,300
72270	Families first	750,000
72290	Strong families, safe children	2,000,000
72310	Zero to three	1,000,000
72320	Family group discussion making	802,200
72340	Community protection and permanency	4,000,000
72400	Teenage parent counseling	1,300,000
81450	Employment and training support services	60,000
81460	Marriage initiative	950,000

81470	Fatherhood initiative	800,000	
82380	Community services block grants	1,200,000	
		23,418,200	

The amount in Section 420 of 2008 PA 248 is reduced to \$30,000.00.

The amount in Section 424 of 2008 PA 248 is reduced to \$150,000.00.

9. Department of Human Services – Child Care Development Fund – Federal Funds

Appropriation

Number	Item	Reduction Amount
32550	Day care services	25,000
		25,000

The amount in Section 676(2) of 2008 PA 248 is reduced to \$0.00.

10. Department of Transportation – Transportation Economic Development Fund

Appropriation

Number	Item	Reduction Amount
87210	Target industries/economic redevelopment	12,000,000
		12,000,000

11. Department of Treasury – Delinquent Tax Collection Revenue

Appropriation

Number	Item	Reduction Amount
01301	Worker's compensation insurance premium	134,000
01870	Collections	100,000
01950	Program management	25,000
		259,000

12. Department of Treasury – Michigan Merit Award Trust Fund

Appropriation

Number	Item	Reduction Amount
03216	Michigan education savings program	100,000
		100,000

13. Department of Treasury – Sales Tax Revenue

Appropriation

Number	Item	Reduction Amount
09466	Statutory state general revenue sharing grants	41,400,000
		41,400,000

14. Department of Treasury – Michigan Strategic Fund – 21st Century Jobs Trust Fund

Appropriation

Number	Item	Reduction Amount
20000	Jobs for Michigan investment program – 21st century jobs fund	9,050,000
		9,050,000

E. The following 21st Century Jobs Trust Fund work project accounts, totaling \$9,950,000.00, are hereby reduced:

Appropriation Number (Appropriation Year)	Reduction Item	Amount
14530 (AY 06)	Treasury	5,000,000
	Agriculture development fund	
20501 (AY 06)	Michigan Strategic Fund	4,950,000
	Grant to Michigan forest finance authority	
		9,950,000

The State Budget Director is authorized to take any and all actions necessary to implement the provisions of this Order to reduce expenditures authorized by appropriations as specified above for the fiscal year beginning on October 1, 2008 and ending on September 30, 2009.

This Order is effective upon approval by the appropriations committees of the House of Representatives and the Senate, as provided under Section 20 of Article V of the Michigan Constitution of 1963 and Section 391 of The Management and Budget Act, 1984 PA 431, MCL 18.1391.

Given under my hand and the Great Seal of the State of Michigan this fifth day of May, in the year of our Lord, two thousand nine.

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JENNIFER M. GRANHOLM  
GOVERNOR

BY THE GOVERNOR:

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SECRETARY OF STATE

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**OPINIONS OF THE  
ATTORNEY GENERAL**

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*MCL 14.32 states in part:*

*“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

*\* \* \**

*(j) Attorney general opinions. ”*

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**OPINIONS OF THE ATTORNEY GENERAL**

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STATE OF MICHIGAN

MIKE COX, ATTORNEY GENERAL

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION  
ACT:

Issues relating to the intentional sinking of  
a vessel to expand recreational diving  
opportunities on Great Lakes bottomlands

GREAT LAKES BOTTOMLANDS:

Assuming the appropriate state and federal authorization has been obtained, if the owner of a vessel intentionally sinks it in the Great Lakes, physically deserts the vessel, and publishes a notice stating that the owner intends to completely relinquish title, possession, and control of the vessel, without vesting ownership in any other person, the vessel could be considered abandoned under both Michigan common law and Part 761 of the Natural Resources and Environmental Protection Act, MCL 324.76101(a). But such actions would not necessarily relieve the person who sunk the vessel from legal responsibilities or liabilities that could arise from the act of sinking.

A vessel intentionally sunk in the Great Lakes does not automatically become property of the State of Michigan when it comes to rest on state bottomlands. The State does, however, reserve to itself a possessory right or title superior to that of a finder to abandoned property of historical or recreational value found on state-owned bottomlands of the Great Lakes. Moreover, pursuant to federal law, the State has title to certain abandoned shipwrecks, including those embedded in Great Lakes bottomlands, as well as other historically significant shipwrecks on Great Lakes bottomlands. In addition, Part 761 provides for the Departments of Environmental Quality and History, Arts, and Libraries to regulate any recovery, alteration, or destruction of abandoned, sunken watercraft, or associated property on Great Lakes bottomlands.

Opinion No. 7229

May 7, 2009

Honorable Michelle A. McManus  
State Senator  
The Capitol  
Lansing, MI

Honorable Jason Allen  
State Senator  
The Capitol  
Lansing, MI

You have asked a series of related questions concerning a proposal by an organization to intentionally sink a vessel in order to expand recreational diving opportunities on Great Lakes bottomlands. These questions involve Part 325 (Great Lakes Submerged Lands) of the Natural

Resources and Environmental Protection Act (NREPA), 1995 PA 59, MCL 324.32501 *et seq*, and Part 761 (Aboriginal Records and Antiquities) of the NREPA, MCL 324.76101 *et seq*.

Before addressing your specific questions, it is important to note that an intentional sinking may violate both state and federal law. Michigan law generally prohibits the intentional sinking of a vessel in the Great Lakes without state authorization. Part 325 applies to "all of the unpatented lake bottomlands and unpatented made lands in the Great Lakes, including the bays and harbors of the Great Lakes, belonging to the state or held in trust by it."<sup>1</sup> MCL 324.32502. The State of Michigan acquired title to these bottomlands in its sovereign capacity upon its admission to the Union and holds them in trust for the benefit of the people of Michigan. *Illinois Central R Co v Illinois*, 146 US 387; 13 S Ct 110; 36 L Ed 1018 (1892); *Nedtweg v Wallace*, 237 Mich 14; 208 NW 51 (1927). MCL 324.32512(1)(c) prohibits placement of material on Great Lakes bottomland in the absence of a permit or legislative authorization:

Unless a permit has been granted by the [Department of Environmental Quality] or authorization has been granted by the legislature . . . a person shall not do any of the following:

\* \* \*

(c) Dredge or *place* spoil or *other material* on bottomland. [Emphasis added.]

Since the intentional sinking of a vessel in the Great Lakes necessarily entails its placement on bottomlands, that activity would require a permit under Part 325 unless it is otherwise authorized by statute.

Part 761 of the NREPA addresses various aspects of the State's interests in "abandoned property of historical or recreational value," MCL 324.76102(1), including such property "found on the state

owned bottomlands of the Great Lakes." MCL 324.76102(2). Among other things, Part 761 creates an underwater salvage and preserve committee, MCL 324.76103, and directs the Michigan Department of Environmental Quality (DEQ), in consideration of the advice of that committee, to establish by rule Great Lakes bottomlands preserves, to be jointly administered by the DEQ and the Department of History, Arts, and Libraries. MCL 324.76111.<sup>2</sup> This latter section does allow for intentional sinking of vessels, but only under specifically limited circumstances:

Upon the approval of the [underwater salvage and preserve committee], not more than 1 vessel associated with Great Lakes maritime history may be sunk intentionally within a Great Lakes bottomlands preserve. However, state money shall not be expended to purchase, transport, or sink the vessel. [MCL 324.76111(6).]

In summary, Michigan law forbids the intentional sinking of vessels in the Great Lakes except as authorized by Parts 325 and 761 of the NREPA.<sup>3</sup>

Federal law also constrains the intentional sinking of vessels in navigable waters, including the Great Lakes. The Rivers and Harbors Act of 1899, 33 USC 409, makes it unlawful "to sink, or permit or cause to be sunk, vessels or other craft in navigable channels" and provides for the marking and removal of sunken vessels that obstruct navigation. Another provision of the same statute, 33 USC 403, more generally prohibits the creation of obstructions to the navigable capacity of waters of the United States

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<sup>1</sup> Generally, a land patent is an instrument of conveyance by which the government first conveys fee simple title to public lands. See *Wilcox v Jackson*, 38 US (13 Pet) 498, 516; 10 L Ed 264 (1839); *Glass v Goeckel*, 473 Mich 667, 683 n 11; 703 NW2d 58 (2005); and *People ex rel Brewer v Kidd*, 23 Mich 440, 445-446 (1871).

<sup>2</sup> See 1981 AACS, R 299.6001-R 299.6003; 1985 AACS, R 299.6004; 1987 AACS, R 299.6005; 1988 AACS, R 299.6006-R 299.6007; 1991 AACS, R 299.6008-R 299.6009; 1998-2000 AACS, R 299.6010; 1999 AACS, R 299.6011; and 2008 AACS, R 299.6012, establishing various Great Lakes state bottomland preserves.

<sup>3</sup> Although beyond the scope of your question, there are other legal constraints to intentionally sinking a vessel. For example, the person responsible could also be liable for contamination of the water caused by substances on the vessel, such as residual fuel, under state and federal environmental statutes. Part 31 (Water Resources Protection) of the NREPA, MCL 324.3101 *et seq*; Clean Water Act, 33 USC 1251 *et seq*. The vessel could also be deemed a common law nuisance. *Detroit Bd of Water Comm'rs v Detroit*, 117 Mich 458; 76 NW2d 70 (1898). See also *Wyandotte Transp Co v United States*, 389 US 191; 88 S Ct 379; 19 L Ed 2d 407 (1967) (ruling that the owner of a sunken ship may be held responsible for the removal expenses incurred by the government resulting from the negligent sinking of a ship).



and the filling of navigable channels except as otherwise authorized by federal law or the United States Army Corps of Engineers. Accordingly, federal as well as state authorization would be required to intentionally sink a vessel in the Great Lakes.<sup>1</sup>

Within this statutory framework, you first ask three closely related questions that may be collectively paraphrased as follows: If an individual or organization that holds title to a vessel intentionally sinks it<sup>2</sup> in the Great Lakes and publishes a statement in a newspaper that it intends to abandon the vessel, would the vessel be considered "abandoned" under Michigan law?

Abandonment under these circumstances is distinctly a question of property law. The term itself has been defined in Black's Law Dictionary (Revised 4<sup>th</sup> ed) p 9, as:

The giving up of a thing absolutely, without reference to any particular person or purpose, as throwing a jewel into the highway; leaving a thing to itself, as a vessel at sea; vacating property with the intention of not returning, so that it may be appropriated by the next comer.

The common law of property is well settled that abandonment (as distinguished from loss) consists of two elements: "[A]n intention to relinquish the property and acts putting that intention into effect, see *Log-Owners' Booming Co v Hubbell*, 135 Mich 65, 69; 97 NW 157 (1903), *Emmons v Easter*, 62 Mich App 226; 233 NW2d 239 (1975)." *Van Slooten v Larsen*, 410 Mich 21, 50; 299 NW2d 704 (1980).

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<sup>1</sup> For example, before intentionally sinking a vessel for recreational diving purposes in the Alger Underwater Preserve established in Lake Superior pursuant to Part 761 of the NREPA, the Alger Underwater Preserve Committee, Inc., obtained a permit from the DEQ under Part 325 of the NREPA and a permit from the United States Army Corps of Engineers under section 10 of the Rivers and Harbors Act of 1899, 33 USC 403.

<sup>2</sup> You also ask whether "'scuttling' a vessel is the same as '[i]ntentionally sinking.'" The Random House Webster's College Dictionary (1997) offers the following definition of "scuttle": "3. to sink (a vessel) deliberately by opening seacocks or

The Michigan Supreme Court recognized in *Rudnik v Mayers*, 387 Mich 379, 384; 196 NW2d 770 (1972), that the intent must be to abandon completely and without reference to another person or purpose [quoting 1 CJS, Abandonment, § 1, p 4]:

"'Abandonment' of property or a right is the voluntary relinquishment thereof by its owner or holder, with the intention of terminating his ownership, possession, and control, and without vesting ownership in any other person." [Emphasis in original deleted.]

Thus, abandonment is established under the common law of property when the intent to abandon is clearly expressed, and is accompanied by actions indicating relinquishment and no intention to return to assert ownership.

Similar principles apply in determining whether a vessel is "abandoned" for purposes of Part 761. MCL 324.76101(a) defines "abandoned property" in part as:

[A] watercraft, including a ship, boat, canoe, skiff, raft, or barge; the rigging, gear, fittings, trappings, and equipment of an aircraft or watercraft; the personal property of the officers, crew, and passengers of an aircraft or watercraft; and the cargo of an aircraft or watercraft, which have been deserted, relinquished, cast away, or left behind and for which attempts at reclamation have been abandoned by owners and insurers.

Under this statute, as at common law, property that is permanently relinquished by its owner is "abandoned."<sup>1</sup>

Applying these common law and statutory standards to the situation described in your requests leads to the conclusion that the vessel in question could be deemed abandoned. Specifically, an express public statement of the intent to completely relinquish title, possession, and control of the vessel,

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making openings in the bottom." Since the terms are essentially synonymous, the responses to your questions would be the same whether the activity is characterized as "scuttling" or "intentionally sinking."

<sup>1</sup> This opinion does not address any rights or interests that may be asserted by third parties, such as insurers or lien holders.

without vesting ownership in any other person, together with the physical desertion of the vessel, could establish that the vessel is abandoned.<sup>1</sup>

It is my opinion, therefore, in answer to your first question, that, assuming the appropriate state and federal authorization has been obtained, if the owner of a vessel intentionally sinks it in the Great Lakes, physically deserts the vessel, and publishes a notice stating that the owner intends to completely relinquish title, possession, and control of the vessel, without vesting ownership in any other person, the vessel could be considered abandoned under both Michigan common law and Part 761 of the NREPA, MCL 324.76101(a). But such actions would not necessarily relieve the person who sunk the vessel from legal responsibilities or liabilities that could arise from the act of sinking the vessel.

You next ask whether a vessel that is intentionally sunk in the Great Lakes automatically becomes property of the State of Michigan when it comes to rest on state bottomlands. It appears that this question is based upon MCL 324.76102(2), in which the State "reserves" rights to certain abandoned property of historical or recreational value:

The state reserves to itself a possessory right or title superior to that of a finder to abandoned property of historical or recreational value found on the state owned bottomlands of the Great Lakes. This property shall belong to this state

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<sup>1</sup> Again, abandoning a vessel would not necessarily relieve the person responsible for sinking the vessel from legal responsibilities or liabilities that could arise from the act of sinking the vessel.

with administration and protection jointly vested in the department [of Environmental Quality] and the department of history, arts, and libraries.

By its terms, the statute applies only to "abandoned property" that is also "of historical or recreational value." Under Part 761, "historical value" means "value relating to, or illustrative of, Michigan history, including the statehood, territorial, colonial, and historic, and prehistoric native American periods." MCL 324.76101(f). "Recreational value" is statutorily defined as "value relating to an activity that the public engages in, or may engage in, for recreation or sport, including scuba diving and fishing." MCL 324.76101(h). As the Court of Appeals explained in *People v Massey*, 137 Mich App 480, 489-490; 358 NW2d 615 (1984), this law protects:

[T]he public trust of articles possessing historic and recreational value . . . [and] the state's interest in preserving its heritage for the use and enjoyment of its citizens.

Reading MCL 324.76102(2) according to the plain meaning of the language chosen by the Legislature, it is apparent that the State does not automatically assume title to any vessel or other object found on its Great Lakes bottomlands. MCL 324.76102(2) specifically "reserves" to the State "a possessory right or title *superior to that of a finder*." (Emphasis added.) This language does not automatically and absolutely vest in the State title to all abandoned property of historical or recreational value located on state bottomlands. Rather, it defines the relative rights of the State and a "finder" of the property, that is, a person who locates the abandoned property and who might then attempt to claim, recover, or remove it from the bottomlands without the consent of the State.<sup>1</sup> While the second sentence of MCL 324.76102(2) states that "[t]his

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<sup>1</sup> Under the common law doctrine of finds, which is sometimes applied to long lost and abandoned shipwrecks, a finder may seek to acquire title to such property by demonstrating both the intent to own it and acts designed to establish exclusive control and possession of it. *Columbus-America Discovery Group v Atlantic Mutual Ins Co*, 974 F2d 450, 459-460 (CA 4, 1992).

property shall belong to this state," that language, like any other provision of a statute, must be read and construed in the context of the entire statute. *Sweatt v Dep't of Corrections*, 468 Mich 172, 179-180; 661 NW2d 201 (2003); *Western Michigan Univ Bd of Control v State*, 455 Mich 531, 538; 565 NW2d 828 (1997). Read in the context of Part 761 as a whole, the phrase "*this property* shall belong to this state" refers back to the State's property interest described in the immediately preceding sentence. (Emphasis added.) The evident purpose of the second sentence is to assign responsibility for the administration and protection of these interests to the DEQ and the Department of History, Arts, and Libraries. Reading the sentences of subsection (2) of MCL 324.76102 together, if a finder encounters abandoned property of historical or recreational value on the Michigan bottomlands of the Great Lakes and seeks to take possession and assert title to it, the State may assert a superior right to the property.

It is important to note, however, that the State of Michigan's legal and regulatory interests in abandoned property on Great Lakes bottomlands, including shipwrecks, are not limited to the provisions of MCL 324.76102(2). For example, federal law also provides that the State has title to certain abandoned shipwrecks of historical value. In the Abandoned Shipwreck Act, 43 USC 2101 *et seq*, the United States "asserts title to any abandoned shipwreck that is (1) embedded in the submerged lands of a State . . . or (3) on submerged lands of a State and is included in or determined eligible for inclusion in the National Register [of Historic Places]."<sup>1</sup> 43 USC 2105(a). The title of the United States to any such shipwreck is then by law "transferred to the State in or on whose submerged lands the shipwreck is located." 43 USC 2105(c).

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<sup>1</sup> In *Zych v Unidentified, Wrecked and Abandoned Vessel, Believed to be the Seabird, etc.*, 941 F2d 525, 529 (CA 7, 1991), the Court of Appeals explained that the scope of the Abandoned Shipwreck Act is limited:

Congress only cared to transfer ownership and ensure protection of shipwrecks of "historic significance," House Report at 365, which it estimated to be a mere five to ten percent of the 50,000 abandoned shipwrecks located in the navigable waters of the U.S. House Report at 365. In the ASA [Abandoned Shipwreck Act], the concept of "embeddedness" serves as a proxy for historic value.

Moreover, regardless of whether the State chooses to assert a possessory right or title to certain abandoned property of historical or recreational value on Great Lakes bottomlands under state law, the State retains broad authority to regulate activities pertaining to all abandoned property on Great Lakes bottomlands, including shipwrecks. MCL 324.76107(1) provides:

Except as provided in section 76108, a person shall not recover, alter, or destroy abandoned property<sup>[1]</sup> which is in, on, under, or over the bottomlands of the Great Lakes, including those within a Great Lakes bottomlands preserve, unless the person has a permit issued jointly by the department of history, arts, and libraries and the department [of Environmental Quality] under section 76109.

Violations of that requirement are subject to criminal prosecution, MCL 324.76107(4) – (7), as well as civil enforcement. MCL 324.76114(2).<sup>2</sup>

It is my opinion, therefore, in answer to your second question, that a vessel intentionally sunk in the Great Lakes does not automatically become property of the State of Michigan when it comes to rest on state bottomlands. The State does, however, reserve to itself a possessory right or title superior to that of a finder to abandoned property of historical or recreational value found on state-owned bottomlands of the Great Lakes. Moreover, pursuant to federal law, the State has title to certain abandoned shipwrecks, including those embedded in Great Lakes bottomlands, as well as other

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<sup>1</sup> "Abandoned property" means:

[A]n aircraft; a watercraft, including a ship, boat, canoe, skiff, raft, or barge; the rigging, gear, fittings, trappings, and equipment of an aircraft or watercraft; the personal property of the officers, crew, and passengers of an aircraft or watercraft; and the cargo of an aircraft or watercraft, which have been deserted, relinquished, cast away, or left behind and for which attempts at reclamation have been abandoned by owners and insurers. Abandoned property also means materials resulting from activities of historic and prehistoric Native Americans. [MCL 324.76101(a).]

<sup>2</sup> The exception to this permit requirement is limited to recovery of abandoned property that is: (a) outside a Great Lakes bottomlands preserve; (b) not in or associated with a sunken aircraft or watercraft; and (c) recoverable by hand without mechanical or other assistance. MCL 324.76108(1). Under certain conditions, such property recovered without a permit must still be reported to the Department of History, Arts, and Libraries and made available for its inspection to determine its historical value. In addition, MCL 324.76109 prescribes detailed permitting requirements for recovery of abandoned property located on, in, or in the immediate vicinity of and associated with a sunken watercraft. These regulatory requirements are not contingent upon any assertion by the State of title to a sunken vessel.

historically significant shipwrecks located on Great Lakes bottomlands. In addition, Part 761 provides for the Departments of Environmental Quality and History, Arts, and Libraries to regulate any recovery, alteration, or destruction of abandoned, sunken watercraft, or associated property on Great Lakes bottomlands.

MIKE COX  
Attorney General

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**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2009 SESSION)**

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*Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”*

*Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.*

*(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”*



**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2009 SESSION)**

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
1	4239		Yes	3/11	3/11	3/11/09	Employment security; administration; persons to whom agency information may be disclosed and assessment of solvency tax; revise. <b>(Rep. B. Constan)</b>
2		202	Yes	3/26	3/27	3/27/09	Liquor; retail sales; prohibition of ownership or marketing for certain entities; revise and clarify. <b>(Sen. A. Sanborn)</b>
3	4582		Yes	3/31	3/31	3/31/09	Appropriations; supplemental; multidepartment supplemental for 2008-2009 fiscal year; provide for. <b>(Rep. L. Gonzales)</b>
4		190	Yes	4/2	4/2	4/2/09	Communications; video services; dispute resolution process; provide for. <b>(Sen. S. Thomas)</b>
5	4515		Yes	4/6	4/6	4/6/09 #	Michigan business tax; credit; number of credits for certain cell manufacturing facilities; increase. <b>(Rep. D. Slavens)</b>
6		319	Yes	4/6	4/6	4/6/09 #	Michigan business tax; credit; credit available for certain cell manufacturing facilities; increase, and revise composition of review board. <b>(Sen. J. Pappageorge)</b>
7	4258		Yes	4/6	4/7	4/7/09	Appropriations; supplemental; multidepartment supplemental for fiscal year ending September 30, 2009; provide for. <b>(Rep. G. Cushingberry)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
8		098	Yes	4/9	4/9	1/1/08 #	Michigan business tax; estimated payments; clarification during transition period for penalties associated with the payment of estimated taxes for the 2008 tax year; provide for. <b>(Sen. J. Pappageorge)</b>
9	4496		Yes	4/9	4/9	1/1/08 #	Michigan business tax; estimated payments; clarification during transition period for penalties associated with the payment of estimated taxes for the 2008 tax year; provide for. <b>(Rep. S. Roberts)</b>
10	4096		Yes	4/9	4/9	4/9/09 #	Criminal procedure; warrants; issuance of certain search warrants; revise. <b>(Rep. R. LeBlanc)</b>
11		188	Yes	4/9	4/9	4/9/09 #	Criminal procedure; warrants; issuance of certain search warrants; revise. <b>(Sen. A. Cropsey)</b>
12		379	Yes	4/9	4/9	4/9/09 #	Financial institutions; loan officers; mortgage loan officer registration; require for consumer financial service companies. <b>(Sen. D. Olshove)</b>
13		380	Yes	4/9	4/9	4/9/09 #	Financial institutions; loan officers; registration of consumer financial services company mortgage loan officers; allow under mortgage brokers, lenders, and servicers licensing act. <b>(Sen. G. Van Woerkom)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
14		381	Yes	4/9	4/9	4/9/09 #	Financial institutions; loan officers; registration of consumer financial services company mortgage loan officers; allow under secondary mortgage act. <b>(Sen. B. Hardiman)</b>
15		227	Yes	4/9	4/9	4/9/09	Children; guardians; guardianship assistance act; clarify. <b>(Sen. I. Clark-Coleman)</b>
16	4045		Yes	4/9	4/9	4/9/09	Economic development; neighborhood enterprise zones; requirements for filing certain applications for a neighborhood enterprise zone; revise. <b>(Rep. B. Scott)</b>
17	4159		Yes	4/9	4/9	4/9/09	Children; adoption; adoption support subsidy; modify to bring into compliance with federal IV-E standards. <b>(Rep. A. Smith)</b>
18	4668		Yes	4/13	4/13	4/13/09	Employment security; benefits; nonchargeable benefits; modify. <b>(Rep. S. Lindberg)</b>
19		399	Yes	4/13	4/13	4/13/09	Employment security; benefits; provision relating to extended benefits; modify. <b>(Sen. J. Allen)</b>
20	4669		Yes	4/13	4/13	4/13/09	Employment security; benefits; training benefits charged to nonchargeable account; clarify. <b>(Rep. L. Liss)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
21		195	Yes	5/5	5/5	5/5/09 #	Local government; financing; investment in certain certificates of deposit; include credit unions. <b>(Sen. T. Stamas)</b>
22	4397		Yes	5/5	5/5	5/5/09 #	Education; financing; investment of certain deposit; include credit unions. <b>(Rep. J. Mayes)</b>
23		322	Yes	5/7	5/7	5/7/09	Appropriations; supplemental; projects administered by departments of natural resources and military affairs; provide funding. <b>(Sen. M. McManus)</b>
24	4309		Yes	5/12	5/12	5/12/09	Appropriations; zero budget; supplemental appropriations; provide for fiscal year 2008-2009. <b>(Rep. G. Cushingberry)</b>
25	4715		Yes	5/12	5/12	5/12/09	State financing and management; funds; investment of money in state lottery fund; modify. <b>(Rep. B. Johnson)</b>
26		466	Yes	5/12	5/12	5/12/09	Michigan business tax; credit; number of credits available for certain cell manufacturing facilities and cap on credit for certain research and development expenses; increase. <b>(Sen. W. Kuipers)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2009 SESSION)**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(i) Other official information considered necessary or appropriate by the State Office of Administrative Hearings and Rules.”*

*The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).*

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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2009 RULE FILINGS)**

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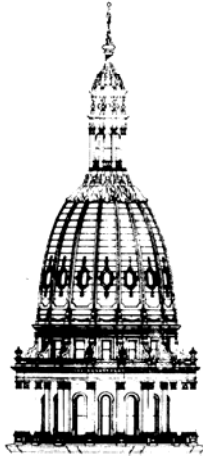
R Number	Action	2009 MR Issue	R Number	Action	2009 MR Issue	R Number	Action	2009 MR Issue
209.1	*	4	209.64	A	4	333.119	A	6
209.3	R	4	209.65	A	4	333.121	A	6
209.5	R	4	209.66	A	4	333.123	A	6
209.7	*	4	209.67	A	4	333.125	A	6
209.8	*	4	209.68	A	4	333.127	A	6
209.11	R	4	209.71	R	4	333.129	A	6
209.13	*	4	209.72	R	4	333.131	A	6
209.14	R	4	209.73	R	4	333.133	A	6
209.15	R	4	209.74	R	4	340.1721a	A	7
209.16	*	4	209.75	R	4	340.1721e	A	7
209.17	R	4	209.76	A	4	340.1851	A	7
209.18	R	4	209.81	A	4	340.1852	A	7
209.19	*	4	209.91	A	4	340.1853	A	7
209.21	R	4	209.101	A	4	340.1854	A	7
209.23	R	4	209.111	A	4	340.1855	A	7
209.24	*	4	299.1021	*	7	397.01	A	6
209.25	*	4	299.1022	*	7	397.02	A	6
209.26	*	4	299.1023	*	7	397.03	A	6
209.28	*	4	299.1024	*	7	397.04	A	6
209.31	A	4	299.1025	*	7	397.05	A	6
209.32	A	4	299.1026	*	7	397.21	A	6
209.33	A	4	299.1027	*	7	397.22	A	6
209.34	A	4	299.1028	*	7	397.31	A	6
209.35	R	4	325.161	*	5	397.41	A	6
209.36	R	4	325.163	*	5	397.42	A	6
209.37	A	4	325.165	*	5	397.43	A	6
209.38	A	4	325.166	*	5	397.44	A	6
209.41	*	4	325.168	*	5	397.45	A	6
209.42	*	4	330.7001	*	7	397.46	A	6
209.43	*	4	330.7199	*	7	397.51	A	6
209.44	*	4	330.7243	*	7	397.61	A	6
209.51	*	4	333.101	A	6	397.62	A	6
209.52	*	4	333.103	A	6	397.71	A	6
209.53	*	4	333.105	A	6	397.72	A	6
209.54	*	4	333.107	A	6	397.81	A	6
209.55	*	4	333.109	A	6	397.82	A	6
209.56	*	4	333.111	A	6	397.83	A	6
209.61	R	4	333.113	A	6	397.84	A	6
209.62	R	4	333.115	A	6	397.85	A	6
209.63	A	4	333.117	A	6	397.91	A	6

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

2009 MR 8 – May 15, 2009

R Number	Action	2009 MR Issue	R Number	Action	2009 MR Issue	R Number	Action	2009 MR Issue
397.92	A	6	400.11131	*	7	408.42916	A	6
325.161	*	7	400.11133	*	7	408.42919	A	6
325.163	*	7	400.11135	R	7	408.42922	A	6
325.165	*	7	400.11137	R	7	408.42925	A	6
325.166	*	7	400.11139	R	7	408.42928	A	6
325.168	*	7	400.11141	R	7	408.42931	A	6
400.1901	*	7	400.11143	*	7	408.42934	A	6
400.1902	*	7	400.11145	*	7	408.42937	A	6
400.1903	*	7	400.11146	A	7	408.42940	A	6
400.1904	*	7	400.11147	*	7	408.42943	A	6
400.1905	*	7	400.11149	*	7	431.1301	*	4
400.1907	*	7	400.11201	*	7	431.3090	*	4
400.1914	*	7	400.11203	*	7	431.4205	*	4
400.1915	*	7	400.11205	*	7	432.5	*	5
400.1916	*	7	400.11207	*	7	432.16	*	5
400.1917	*	7	400.11208	A	7	432.18	*	5
400.1921	*	7	400.11209	*	7			
400.1931	*	7	400.11211	*	7			
400.1932	*	7	400.11213	*	7			
400.1934	*	7	400.11215	*	7			
400.1941	*	7	400.11217	*	7			
400.1942	*	7	400.11219	*	7			
400.1943	*	7	400.11221	*	7			
400.1944	*	7	400.11224	A	7			
400.1951	*	7	400.11227	*	7			
400.1952	*	7	400.11302	A	7			
400.11101	*	7	400.11305	R	7			
400.11102	*	7	400.11319	*	7			
400.11103	*	7	400.11401	A	7			
400.11105	*	7	400.11403	A	7			
400.11106	*	7	400.11405	A	7			
400.11109	*	7	400.11407	A	7			
400.11113	*	7	400.11409	A	7			
400.11115	*	7	400.11411	A	7			
400.11119	*	7	400.11413	A	7			
400.11121	*	7	408.42901	A	6			
400.11122	A	7	408.42904	A	6			
400.11123	*	7	408.42907	A	6			
400.11125	*	7	408.42910	A	6			
400.11127	*	7	408.42913	A	6			

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)



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**CUMULATIVE  
INDEX**

---

**A**

**ARICULTURE, DEPARTMENT OF**

Office of the Racing Commission General Rules (2009-4)

**ATTORNEY GENERAL, DEPARTMENT OF**

**Opinions**

Legality of radio-controlled fishing devices under MCL 324.48703(1)

OAG 7222 (2009-1)

Legal effect of the Department of Environmental Quality's operational memoranda

OAG 7223 (2009-1)

Governor's Authority to Direct the Department of Environmental Quality To Impose Certain Requirements in the Processing of Applications for Air Emissions Permits for Coal-fired Power Plants

OAG No. 7224 (2009-5)

Force and Effect of Gubernatorial Statements Made in Line Item Veto Transmittal Letters

OAG No. 7225 (2009-5)

Whether a Person Serving as a Township Supervisor and City Police Hold Incompatible Offices

OAG No. 7226 (2009-5)

Legality of proxy voting under Open Meetings Act

OAG Opinion No. 7226 (2009-6)

Application of the Sex Offenders Registration Act's Student Safety Zone Exception to Prisoners

OAG Opinion No. 7228 (2009-7)



Issues relating to the intentional sinking of a vessel to expand recreational Diving opportunities on the Great Lakes bottomlands

OAG Opinion No. 7229 (2009-8)

**C**

**COMMUNITY HEALTH, DEPARTMENT OF**

Michigan Care Improvement Registry (2009-5)

Michigan Medical Marihuana (2009-6)

Psychology Rules (2009-4\*)

Reporting of Non Suicidal, Non Medicinal Chemical Poisonings (2009-7\*)

State Trauma Systems (2009-8\*)

**E**

**EDUCATION, DEPARTMENT OF**

Special Education Programs and Services (2009-7)

**ENERGY, LABOR & ECONOMIC GROWTH, DEPARTMENT OF**

Boiler Rules (2009-2\*)

Electric Interconnection and Net Metering Standards (2009-3\*)

Gas Safety (2009-8)

Judges Retirement Board – General Hearing Rules (2009-3\*)

Part 1 a. Abrasive Wheels (2009-6\*)

Part 9 Michigan Housing and Community Development Fund, Michigan Housing and Community Development Program (2009-8)

Part 29, Communication Towers (2009-6)

Property and Casualty Reserves – Actuarial Opinion (2009-7\*)

Public School Retirement Board – General Hearing Rules (2009-3\*)

State Police Retirement Board – General Hearing Rules (2009-3\*)

Workers' Compensation Health Care Services Rules (2009-5\*)

**EXECUTIVE OFFICE**

**Executive Reorganization**

2009 EO's

No. 1 (2009-2)

No. 2 (2009-3)

No. 3 (2009-3)

No. 4 (2009-3)

No. 5 (2009-3)

No. 6 (2009-5)

No. 7 (2009-5)

No. 8 (2009-5)

No. 9 (2009-5)

No. 10 (2009-5)

No. 11 (2009-5)

No. 12 (2009-5)

No. 13 (2009-5)

\* Proposed Rules

No. 14 (2009-5)  
No. 15 (2009-5)  
No. 16 (2009-6)  
No. 17 (2009-6)  
No. 18 (2009-6)  
No. 19 (2009-6)  
No. 20 (2009-6)  
No. 21 (2009-7)  
No. 22 (2009-8)

**H**

**HISTORY ARTS AND LIBRARIES, DEPARTMENT OF**  
State Aid Rules (2009-6)

**HUMAN SERVICES, DEPARTMENT OF**  
**Corrections**

Adult Foster Care Family Homes and Licensing Rules (2009-6)

Children's and Adult Foster Care Camps (2009-7)  
Licensing Rules for Family and Group Child Care Homes (2009-7)

**N**

**NATURAL RESOURCES, DEPARTMENT OF**  
Threaten and Endanger Species (2009-7)

**S**

**STATE POLICE, DEPARTMENT OF**  
Criminal Justice Information Systems (2009-2\*)

**T**

**TREASURY, DEPARTMENT OF**  
Lottery Rules (2009-5)